

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 19, 2004

3:40 p.m.

TAPE (S) 04-8

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator John Cowdery, Vice Chair
Senator Bert Stedman
Senator Gretchen Guess

MEMBERS ABSENT

Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 287

"An Act relating to review of regulations under the Administrative Procedure Act by the Legislative Affairs Agency; and providing for an effective date."

MOVED CSSB 287(STA) OUT OF COMMITTEE

SENATE BILL NO. 302

"An Act relating to the authority to take oaths, affirmations, and acknowledgments in the state; relating to notaries public; relating to fees for issuing certificates with the seal of the state affixed; and providing for an effective date."

MOVED CSSB 302(STA) OUT OF COMMITTEE

SENATE BILL NO. 296

"An Act requiring an auditable paper trail for electronic voting machines."

MOVED SB 296 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 287

SHORT TITLE: REGULATION REVIEW

SPONSOR(S): SENATOR(S) THERRIAULT

01/30/04	(S)	READ THE FIRST TIME - REFERRALS
01/30/04	(S)	STA, FIN
02/10/04	(S)	STA AT 3:30 PM BELTZ 211

02/10/04 (S) Heard & Held
02/10/04 (S) MINUTE(STA)
02/19/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 302

SHORT TITLE: OATHS; NOTARIES PUBLIC; STATE SEAL
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/06/04 (S) READ THE FIRST TIME - REFERRALS
02/06/04 (S) STA, JUD
02/19/04 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 296

SHORT TITLE: PAPER TRAIL FOR ELECTRONIC VOTING MACHINE
SPONSOR(S): SENATOR(S) ELLIS

02/04/04 (S) READ THE FIRST TIME - REFERRALS
02/04/04 (S) STA, FIN
02/19/04 (S) STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

Dave Stancliff
Staff to Senator Gene Therriault
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on SB 287

Annette Kreitzer
Chief of Staff
Office of the Lieutenant Governor
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Spoke to SB 287 and introduced SB 302

Scott Clark
Notary Commission Administrator
Office of the Lieutenant Governor
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on SB 302

Johnny Ellis
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor SB 296

Dana Owens
Staff to Senator Johnny Ellis
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on SB 296

Laura Glasier
Director, Division of Elections
Office of the Lieutenant Governor
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on SB 296

Caren Robinson
AK Women's Lobby
P.O. Box 33702
Juneau, AK 99802
POSITION STATEMENT: Testified in support of SB 296

Jennifer Rudinger
Executive Director, ACLU
No address provided
POSITION STATEMENT: Commented via teleconference on SB 296

Nina Mollett
No address provided
POSITION STATEMENT: Testified on SB 296

Don Anderson
No address provided
POSITION STATEMENT: Testified via teleconference in strong support of SB 296
ACTION NARRATIVE

TAPE 04-8, SIDE A

CHAIR GARY STEVENS called the Senate State Affairs Standing Committee meeting to order at 3:40 p.m. Present were Senators Stedman, Guess and Chair Gary Stevens.

SB 287-REGULATION REVIEW

CHAIR GARY STEVENS announced SB 287 to be up for consideration. He noted there was a committee substitute (CS) and asked for a motion to adopt it as the working document.

SENATOR BERT STEDMAN made a motion to adopt CSSB 287, version 23-LS1566\D as the working document. There being no objection, it was so ordered.

CHAIR GARY STEVENS asked Mr. Stancliff to explain the changes in the CS and noted there was a revised fiscal note accompanying the CS.

DAVE STANCLIFF, staff to sponsor Senator Gene Therriault, said the CS addresses several of the comments expressed at the prior meeting.

To reduce the fiscal impact and not involve legislative legal in reviews that don't need their expertise, all boards and commissions were removed from the review process. The boards of fish and game were removed in the CS and they represent almost 21 percent of all regulation proposals that the attorney general's (AG) office reviews in a year. With that workload reduction, the fiscal note is reduced by about \$100,000.

Page 2, lines 10-18 addresses the means of communication. He explained that the bill requires a review, but the communication between legislative legal and the AG's office is informal rather than in writing unless there is no resolution.

The third change is on page 2, lines 19-22 and relates to communication between Legislative Legal Services and the Department of Law, the Administrative Regulation Review Committee, the Senate President, and the Speaker of the House of Representatives. For reasons of confidentiality, documents between the Legislative Legal Services and any of the parties named are to be considered working documents. He reported that conversations are ongoing regarding changes suggested by the Department of Law. Because those changes might further reduce the fiscal impact, the sponsor has said he would make the changes prior to the hearing in the Finance Committee if he elects to incorporate them.

Page 2, lines 23-25 makes it clear that reviews conducted by the Legislative Legal Services will not delay the adoption, amendment, or repeal of a regulation.

On page 1, line 9 states that the Department of Law will not be encumbered with the task of copying and providing documents to legislative legal.

He concluded his comments by reemphasizing that the sponsor is still working with the Department of Law and he is aware that many of their suggestions are designed to reduce the fiscal impact.

CHAIR GARY STEVENS thanked Mr. Stancliff and noted that although this was the second time the committee had heard the bill, it would be helpful for him to recap the purpose of the legislation and what it is attempting to accomplish.

MR. STANCLIFF explained that the legislation is based on the premise that the Executive Branch, through the Department of Law, provides a good balance regarding their perspective into the legislative system. But the same level of oversight and involvement ceases during the interim when regulations begin to flow.

In comparison, the Minnesota Legislative Branch co-writes regulation with the Executive Branch while the Colorado Legislature conducts an annual review of regulations. SB 278 is an effort to raise the quality and standard of regulations to comport with what the Legislature intended in statute. To accomplish this end, the Legislative Branch would review regulations before the public comment period. This, he asserted, is nothing more than a quality review by the legislative legal team.

SENATOR BERT STEDMAN remarked this would require additional state hiring, but the fiscal note indicates there isn't any physical space available in the legislative legal office. He asked for a comment on increasing efficiency versus increasing state overhead.

MR. STANCLIFF replied that is a concern, but incorporating other suggestions from the Department of Law may reduce the fiscal note to the point that finding new space for the new hires won't be an issue. With regard to cost, he suggested that, "Just as in a business, an investment sometimes up front translates into a great savings on down the line." He acknowledged that the Finance Committee might insist that existing space be found before they agree to move the bill.

SENATOR GRETCHEN GUESS questioned excluding all boards, commissions, councils or other public corporations. She noted the Board of Fish and the Board of Education are both boards within a department and she was curious how that would work. Because the Board of Education approves regulations the

Department of Education makes, she questioned whether regulation such as the implementation of the high school qualifying exam would be excluded.

MR. STANCLIFF replied if the regulation or proposed rule is generated from a board or commission, it would be exempt from this rule regardless of whether or not it is part of an agency. He reported this broad-brush application was a policy call to reduce cost. It is agency driven regulations promulgated as a matter of agency policy that have been problematic, he asserted. Further, board and commission members take their jobs very seriously and they usually have an assistant attorney general assigned to work with them.

SENATOR GUESS maintained the writing is too broad and she would like the committee to consider that and have Mr. Stancliff take that assertion back to the sponsor. She didn't believe any comments in the previous hearing suggested that all education regulations be excluded from the bill, but that is what appears to have happened. The Board of Fish and the Board of Education are very different and she asked that be taken into consideration.

She then asked if councils and public corporations included the Alaska Railroad Corporation, Alaska Housing Finance Corporation (AHFC), and Permanent Fund Corporation.

MR. STANCLIFF agreed and said those political subdivisions that have been created over the years and exempted from the Administrative Procedure Act (APA) are excluded from the review process.

SENATOR GUESS asked if the Council on Sexual Assault and Domestic Violence would be an example of a council.

MR. STANCLIFF said yes, he thought the drafter, Tam Cook, was trying to separate any quasi-regulatory body that had been created from the "hard agency" regulatory provisions.

SENATOR GUESS expressed concern about the three extra positions and asked him to elaborate on the "savings down the road" he referred to earlier. She reviewed the fiscal note and said, "For the record, when it gets to Senate Finance - 10 months of a legal secretary seems interesting..."

MR. STANCLIFF said there has been some discussion of how this might be funded. He pointed to the chart that shows some of the

ways that agencies are financially affected when the AG reviews them. He contended that the direct savings would probably come from having a better process. When people know their work will be reviewed, they do a better job.

The indirect savings, he asserted, are enormous. "The cost of one poorly written, wrongfully constructed regulation, applied at the wrong time, that causes litigation is unbelievable." He called this a "better government provision."

CHAIR GARY STEVENS observed that legislative legal works less than full time during the interim and he wondered if there might not be a way to use them more fully.

MR. STANCLIFF thought there was room for further negotiation in the interest of making the bill more fiscally palatable.

CHAIR GARY STEVENS asked if there were other questions or comments.

SENATOR GUESS made a final comment regarding eliminating all boards, commissions, councils, and public corporations. She advised, "You might want to go for what you think is right and see if we can negotiate somewhere around that because I'm pretty concerned about it."

CHAIR GARY STEVENS announced Senator John Cowdery had joined the meeting.

3:50pm

ANNETTE KREITZER, chief of staff to Lt. Governor Leman, answered Senator Guess's question about boards and commissions saying there is nothing in the public process that would preclude Legislative Legal from reviewing boards and commissions. As they look at amending the bill, they would keep that in mind, she said.

For the record she stated that Lt. Governor Leman and his staff would continue to work with the sponsor as the bill moves along.

SENATOR GUESS said she appreciates the comment and she sees the purpose of the bill, but her worry is that if all boards and commissions are taken off the table that won't change because people are busy.

CHAIR GARY STEVENS announced he would like to move the bill on to the Finance Committee.

SENATOR COWDERY made a motion to move CSSB 287, \D version, from committee with individual recommendations and attached fiscal note. There being no objection, it was so ordered.

SB 302-OATHS; NOTARIES PUBLIC; STATE SEAL

CHAIR GARY STEVENS announced SB 302 to be up for consideration. He invited Annette Kreitzer to come forward.

ANNETTE KREITZER, chief of staff to Lt. Governor Lemman, said Scott Clark was joining her. The reason for the bill, she explained, is the notary statutes have seen little updating since about 1961. She noted member's had a sectional analysis, a page of frequently asked questions, and a page comparing the current and proposed notary statute policy issues.

Although she was happy to answer any questions, she said she would just highlight the sectional analysis. She noted that she and others in the office were surprised to learn that the lt. governor and the presiding officers of both bodies must be notaries to be able to administer the oath of office so that change is addressed in section 1.

Section 5 increases the fee for a notary certificate from \$2.00 to \$5.00. Section 6 relates to the two categories of notaries. The notary public without limitation has a four year term and may charge fees for service. The limited governmental notary may conduct only official government business, the term is the same as the length of government employment, and they may not charge a fee. A notary public may hold both types of commission concurrently.

Section 7 changes qualifications. The age was lowered from 19 to 18; the notary must be an Alaska resident and reside in the U.S.; and he or she may not be a convicted felon or have had a commission revoked.

MS. KREITZER reported that the remaining sections relate to changing antiquated language. Section 13 is the repealer section and for the most part the repeals are rewritten then reincorporated elsewhere in the bill.

CHAIR GARY STEVENS noted that is on page 14 of the bill.

Section 14 relates to applicability and sets forth that commissions continue in effect until the term of office expires or if the commissioned is a felon; bonds, seals and liabilities in effect continue through the term of office; all notaries must follow the notary procedures encompassed in the legislation; and when commissions expire, application for new commissions will be under AS 44.50.031.

CHAIR GARY STEVENS asked for verification that a convicted felon would lose his or her commission.

MS. KREITZER said that's correct.

SENATOR COWDERY asked if notaries could charge fees because he notices that in the post office they may not charge fees.

MS. KREITZER replied limited governmental notaries doing government business may not charge fees while private notaries may charge fees, but the latter must develop and adhere to a fee schedule. Referring to the postmaster, she pointed to a proposed amendment in the packets and explained that they recently discovered that Alaska law has been inconsistent with the federal law.

SENATOR COWDERY asked if there is any regulation on how much could be charged.

SCOTT CLARK, notary commission administrator, advised that notaries are free to develop their own fee schedule.

CHAIR GARY STEVENS asked Ms. Kreitzer to stay for potential questions then asked Mr. Clark if he would care to comment on the bill.

MR. CLARK wasn't close enough to the microphone to pick up his response.

SENATOR STEDMAN contended the question about the fee structure had merit. He noted that many businesses offer the service to their customers and the notaries he has worked with over the years have been proud to be a notary and take their job seriously.

He asked if there is data on how many convicted felons are notaries.

MR. CLARK replied there is no current restriction so they don't track that information. Nonetheless, he wouldn't expect the number to be very high.

SENATOR STEDMAN noted that a great deal of responsibility comes with a notary commission and asked for an explanation for why the age was reduced.

MR. CLARK admitted he wasn't working in his current capacity when the original notary bill passed, but he surmised it had something to do with the drinking age. He continued to say that all states but Alaska and Nebraska have established 18 as the minimum age for a notary. He expressed full agreement that a notary work is an important service that should be taken seriously. On the other hand, many entry-level positions in banks tend to go to younger people. Yesterday he received a call from a bank that was trying to hire an 18 year old. Part of the job description was to perform notary services and they were uncertain about the age limit. That person might not have qualified for the job because they weren't eligible to become a notary for another six months.

SENATOR STEDMAN then asked for an explanation of current and proposed authority regarding revocations and extensions.

MS. KREITZER replied the current process for revocation is through the Administrative Procedure Act (APA). If there is a complaint against a notary, the governor must find a hearing officer to process the complaint. The hearing officer can continue or revoke a notary commission, but the lt. governor lacks that authority.

In the course of their review, they evaluated the process in Washington, Oregon and Texas and took an amalgam. As proposed, the lt. governor would have the authority to evaluate complaints for merit and then take action ranging from conducting a disciplinary hearing up to revoking a commission.

SENATOR STEDMAN asked how many commissions have been revoked.

MR. CLARK answered he was not aware of any.

MS. KREITZER gave the following background. One of the first things she did as chief of staff was to look at the jobs in the lt. governor's office to determine whether or not there was a better way to do things. With regard to notaries, they found that the test they give is not mandatory. Although they want to

continue that, they would like to move to an educational, web based, model to better serve the 12,000 notaries in the state.

Even though there haven't been a large number of complaints, they have determined that the disciplinary section is important. Since Lt. Governor Leman has been in office, she knows of three instances in which notaries pushed the line of propriety.

SENATOR STEDMAN commented that most people are honest, but occasionally an unscrupulous person will modify the signature on a notarized document. He knew that notaries usually keep a log for their own protection and he was curious about the requirements for keeping a log.

MS. KREITZER replied that is a policy point they discussed, but because they don't have the staff to ensure that notaries keep logs, they just make the strong recommendation that one is kept.

MR. CLARK confirmed that the office has always strongly recommended that a log is kept and they intend to continue that recommendation. It's important to the public to be able to follow up on a notarized signature and because a notary is liable for every action he or she takes as a notary, it's important for their protection as well. An accurate detailed log is the only proof a notary has to show that they have complied with the law.

SENATOR GRETCHEN GUESS referred to page 3, line 27 and asked what qualifications are associated with limited notaries, other than being a state, municipal or federal employees. She observed it wasn't clear whether or not the qualifications in section 7 covered both public and limited notaries.

MS. KREITZER replied both commissions have the same qualifications.

SENATOR GUESS asked if the drafter said that is clear, because it doesn't explicitly say that.

MS. KREITZER gave a nod.

SENATOR GUESS asked about the process for revoking the commission if a notary subsequently becomes a felon.

CHAIR GARY STEVENS noted she was referring to page 4, line 6.

MS. KREITZER replied that because they don't collect such information, someone would first have to file a complaint and then the process on page 11 would be set into place. The lt. governor would hear the complaint and since felony convictions are a matter of public record, determining the validity of the complaint would be a simple matter.

SENATOR GUESS asked if there is a reapplication process after four years at which time the office might check for felony convictions.

MS. KREITZER said they decided they didn't want to disrupt current commissions so the only way someone would lose their commission would be if a valid complaint were filed. The new requirements become effective when a term ends and the notary reapplies.

SENATOR GUESS clarified she was asking about cases in which a notary became a felon after they had received a commission.

MS. KREITZER said it would be the same complaint driven process.

CHAIR GARY STEVENS asked for verification that no one had ever lost their commission because of a felony conviction.

MR. CLARK said he has received complaints from the public about notaries supposedly being felons, but because they don't have the authority to investigate or discipline notaries, they haven't followed up on the allegations.

SENATOR GUESS noted she didn't see any mention in the fiscal note, but she wondered if the lt. governor's office would begin to conduct background checks.

MS. KREITZER stated they wouldn't run checks. Applicants will be taken at their word.

SENATOR COWDERY asked if signature verification is the only duty a notary performs or is there also a requirement to determine whether or not the document is valid as well.

MR. CLARK replied notaries verify signatures and are empowered to give oaths.

CHAIR GARY STEVENS asked him to clarify that the job is to verify that the signer is who they say they are and not to prove the document in any way.

MR. CLARK said that is exactly correct. "A notary serves as an impartial third party witness to the signer of a document. They verify the identity of the signer and they witness the act. The act has to take place in front of the notary - at least the notarization..." Notaries take an oath swearing that the information they gave on their application is full and correct and giving oaths is another common act for a notary.

CHAIR GARY STEVENS announced a proposed amendment was before the committee.

SENATOR COWDERY made a motion to adopt amendment number 1 reading:

Page 10, line 10:

Delete "a \$5 name change fee"
Insert "the fee under AS 44.19.024"

Page 14, line 11:

Insert: "44.50.180(c),"

CHAIR GARY STEVENS asked Ms. Kreitzer to explain the amendment.

MS. KREITZER said after the bill was drafted she realized that the \$5 name change fee was confusing because it appeared that it was different than the \$5 fee for certificate under AS 44.19.024.

The second change is related to charging fees for notary services. It repeals AS 44.50.180(c) because it is the inconsistency she mentioned between Alaska law and federal law.

CHAIR GARY STEVENS asked if there were any questions or objections to adopting amendment number one and there were none. He asked for a motion to move the bill.

SENATOR COWDERY motioned to pass CSSB 302(STA) from committee with the accompanying fiscal note. There being no objection, it was so ordered.

TAPE 04-8, SIDE B
4:25 pm

SB 296-PAPER TRAIL FOR ELECTRONIC VOTING MACHINE

CHAIR GARY STEVENS announced SB 296 to be up for consideration and asked Senator Ellis to introduce the bill.

SENATOR JOHNNY ELLIS, Senate District L representative and sponsor of SB 296, stated:

In the wake of the 2000 federal election, and with the impetus of the federal Help America Vote Act (HAVA), states across the nation are replacing punch card and paper ballots with computerized vote casting, tabulation and reporting. Alaska has successfully used the Acu-Vote system of optically scanned ballots since 1998. New direct recording equipment (DRE) machines - also known as touch -screen - are scheduled to be used for the first time in 2004.

In fact, the Division of Elections here in Alaska has purchased 100 of these touch-screen voting machines and will deploy them across the state for the first time in the primary election this fall.

I would ask, Mr. Chairman, to just imagine that it is Election Day 2004. You enter your polling place and go to cast your vote on a brand new touch-screen voting machine. The screen says your vote has been counted. As you exit the voting booth, however, you begin to wonder. How do I know if the machine actually recorded my vote? The fact is, you don't.

The problem is simple; a touch-screen voting machine records your vote in the memory of the machine where you can't see it. How do you know that your vote for candidate A wasn't recorded as a vote for candidate B? You don't.

In this first election it will be blind and disabled Alaskans who will have that question. In the future it could be all Alaskans who choose to go to the polls who would have to ask those questions. But there is a way to prevent that.

I note Mr. Chairman that computer experts across the country have warned of numerous problems with the direct recording equipment machines. In fact, there are a number of horror stories in your bill packets.

As counties and state governments use these machines in their elections, there have been very significant problems.

The answer to this is really simple - an auditable paper trail for these machines. The good news is that we can use federal funds. We don't have to use state funds. Federal funds are available to modify these machines and the technology is there and improving all the time to make sure there is an auditable paper trail.

Citizen trust is the bedrock of democracy. Only an accurate count can assure voters that elections result in the true reflection of their will. Requiring a voter verified paper trail will assure Alaskans that no matter what technology is adopted in the future, their elections will be transparent and their votes counted accurately.

SENATOR JOHN COWDERY asked if each voter could go back and see how they voted.

SENATOR ELLIS replied the Acu-Vote system has been used successfully for several years. The voter marks their ballot and places it in the machine. The voter is able to verify how they marked their ballot. If there is a question or challenge to the election, there is a paper trail for a recount. With the DRE machines and without a statutorily required auditable paper trail, a recount or challenge is dependent on the memory that is on a computer chip. Because hacking is not uncommon, challenges and recounts are difficult. Auditable paper trails are the solution and the wave of the future, he said.

"We have one of the best election staffs and sets of volunteers of any state. We rank at the very top in all of these objective, non-partisan analyses..." However, there have been a number of close and hard fought elections in the state as well as a number of challenges and recounts. A verifiable paper trail is important for the future.

CHAIR GARY STEVENS remarked it is extremely important to be able to trust election results. He noted he has read about systems that give voters a paper receipt. He questioned the validity of the secret ballot if people are able to leave the polling station with a paper showing how they voted.

DANA OWENS, staff to Senator Ellis, explained that most companies that are working on this technology are working on systems where the voter wouldn't actually hold the verification. They would view the ballot through a window and verify the accuracy before the ballot is deposited into a different place than where the electronic vote is recorded.

CHAIR GARY STEVENS said, "A paper trail means there really is a piece of paper..."

SENATOR ELLIS said the 100 machines that the Division of Elections has already purchased were the result of a unanimous bi-partisan vote to help the blind and disabled vote in private.

The federal Help America Vote Act is a result of the debacle in Florida in the last presidential election and the federal government has made money available for states to update their systems. Although he has gotten the impression that the federal government won't require an auditable paper trail it's logical to move in that direction. SB 296 requirements would begin in 2006 to give the Division of Elections the time to secure the needed technology and work out the system.

SENATOR BERT STEDMAN asked how many disabled voters reside in Alaska.

SENATOR ELLIS said he didn't have that information.

SENATOR STEDMAN asked when the federal requirements begin.

MR. OWEN replied January 1, 2006.

SENATOR ELLIS said Alaska is ahead of the curve, but those 100 new machines won't have an auditable paper trail.

CHAIR GARY STEVENS recalled testimony from last session when a blind man said he had to go into the voting booth with his wife and he humorously stated that he was never sure that she voted the right way. He asked Senator Stedman how secure he would be in that situation.

SENATOR STEDMAN chuckled and admitted there are times when he wouldn't be very secure.

SENATOR ELLIS commented that a lot of married couples cancel each other.

LAURA GLAISER, director, Division of Elections, said Senator Ellis covered much of her testimony so she would rather answer questions and make sure everyone understood the process.

She explained that the current election system is not on the Internet and is quite secure. The memory is transmitted via modem, but to hack the line the hacker would have to "know exactly which phone that the precinct would use, which phone number was used, which phone number they were dialing into and hit that 3 to 5 seconds when that information is transmitted."

For many years Alaska has had an exemplary bipartisan review and that would continue. A bipartisan board tests the memory cards and zeroes them out then runs a test ballot to make sure it always runs the same and to ensure that a Trojan Horse isn't placed in the machine.

The division does not oppose SB 296, she said, but the modifications have yet to receive certification. They selected the new touch-screen system because it has been certified. She said the 2006 implementation date is a gracious accommodation and would coincide with the federal implementation date. This bill would allow the division to implement the 100 touch-screen machines.

At some point she said she would like clarification because they didn't plan to limit the use of the 100 touch-screen machines to only those voters who are blind, disabled or visually impaired. If a legislative policy maker wanted to limit that use, she said they would understand.

CHAIR GARY STEVENS asked if the machine was a Braille machine.

MS. GLAISER replied the Acu-Vote touch-screen system has a touchpad that blind people are accustomed to using. There is an audio unit that walks the voter through the ballot and allows selection with the touchpad.

CHAIR GARY STEVENS asked about whether the voter receives some sort of confirmation that they voted in a certain way.

MS. GLAISER said the new machines meet federal law, which requires an audit trail. Although there is a paper tape inside, the voter can't see it and that is the issue that SB 296 addresses.

SENATOR STEDMAN commented that he appreciates the movement to make it easier for the visually impaired to fully participate in the democratic system.

CAREN ROBINSON, representative of the Alaska Woman's Lobby, said:

This bill is critical to ensure the faith in our elections. Around the nation, the faith is being lost due to the controversy surrounding computer based voting.

Unless we maintain our ability to recount the ballots, by hand, when resolves are questioned, we can never know whether our elections are honest or rigged, whether equipment was accurate or failed.

The Alaska Women's Lobby believes that nothing is more important to the advancement of women in society but their vote be accurately counted.

She encouraged support for the legislation.

SENATOR COWDERY asked for an explanation of the revised fiscal note.

MS. GLAISER explained that the original fiscal note showed 446 precincts and after the revision in the Interior, there are only 441 precincts.

JENNIFER RUDINGER, executive director of the ACLU, testified via teleconference to say that this is a very complicated issue and she looks forward to learning more about the new technology.

"The integrity of the voting process is ... fundamental to the operation of our democracy," she said. A major component of the process is voting technology that is honest and accurate. She urged members to remain ever vigilant about new technology and strive to deliver a system that maximizes the likelihood that the voters' intent is recorded. The system should be as simple as possible yet the technology must be sophisticated enough to ensure confidence that it cannot be rigged to thwart the will of the electorate.

Touch-screen voting systems certainly offer potential advantages including ease of use, accessibility to the disabled, and adaptability to different languages. That being said, computer

experts are uncertain about the overall security and reliability of this system. The ACLU Board of Directors is currently debating this issue and will have specific recommendations in approximately three weeks.

"In terms of SB 296, voter verified paper ballots are a step in the direction of where we need to go toward public accountability.... but it's not the end of the inquiry," she concluded. The board would have specific recommendations after March 15 and looks forward to working with Senator Ellis, other legislators, and the Division of Elections on this issue.

CHAIR GARY STEVENS thanked Ms. Rudinger and cautioned her not to dawdle as the legislative clock was ticking and that it's more productive to be a part of the legislative process before a decision is made.

MS. RUDINGER agreed and said they are working to learn about the new technology. She appreciated the opportunity to go on the record to say they like the direction SB 296 is moving and they will formulate their recommendations shortly.

NINA MOLLETT testified that she has been following this issue since November 2000. Although she believes that Alaska has had the best voting system in the country, she is concerned now that the 100 touch-screen voting machines have been purchased because she doesn't trust the company that makes the machines and develops the software. She suggested there are other solutions being developed for HAVA.

DON ANDERSON testified via teleconference and reported he is a former member of the State Election Review Board and has been a computer programmer for 39 years. He expressed strong support for SB 296 and urged members to pass the bill before the next election.

He recommended:

- Providing a statistical audit selection of certain machines. Those machines would have their paper ballots removed and counted by a bipartisan committee and compared with the electronic results.
- Limit touch-screen machine use to the disabled - even though they have a paper trail - to minimize their impact until substantially more is known about how auditable they are.

On a personal note and as a staunch Republican, he said he would like to see some Republican legislators sign on as sponsors.

SENATOR ELLIS cheerfully said, "That's the best witnesses I've ever heard. I don't know the guy; I'm so glad he showed up."

SENATOR GRETCHEN GUESS made a motion to move SB 296 from committee with individual recommendations and attached revised fiscal note. There being no objection, it was so ordered.

There being no further business to come before the committee, Chair Gary Stevens adjourned the meeting at 5:00 pm.