

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

March 3, 2005

8:02 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Carl Gatto, Vice Chair
Representative Jim Elkins
Representative Jay Ramras
Representative Berta Gardner
Representative Max Gruenberg

MEMBERS ABSENT

Representative Bob Lynn

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 7

Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor.

- MOVED HJR 7 OUT OF COMMITTEE

HOUSE BILL NO. 48

"An Act relating to a determination of costs attributable to relocating the legislature or the state capital or of constructing a new capitol building in the present capital city, and to a determination of all costs of retaining the existing capitol building and keeping the state capital and legislature in the present capital city; relating to voter approval of certain bondable costs; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 103

"An Act requiring an actionable claim against the state to be tried without a jury."

- MOVED HB 103 OUT OF COMMITTEE

HOUSE BILL NO. 127

"An Act relating to service in the peace corps and to service as a diplomat in the United States Foreign Service as allowable absences from the state for purposes of eligibility for permanent fund dividends and to the period for filing an application for a permanent fund dividend; authorizing the Department of Revenue to issue administrative orders imposing sanctions for certain misrepresentations or other actions concerning eligibility for a permanent fund dividend and providing for administrative appeal of those orders; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 7

SHORT TITLE: CONST AM: SEC. OF STATE REFERENCES

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

01/21/05 (H) READ THE FIRST TIME - REFERRALS
01/21/05 (H) STA, JUD, FIN
03/03/05 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 48

SHORT TITLE: EXPENDITURE FOR CAPITOL CONSTRUCTION

SPONSOR(S): REPRESENTATIVE(S) STOLTZE, GATTO

01/10/05 (H) PREFILE RELEASED 1/7/05
01/10/05 (H) READ THE FIRST TIME - REFERRALS
01/10/05 (H) STA, FIN
02/22/05 (H) STA AT 8:00 AM CAPITOL 106
02/22/05 (H) Heard & Held
02/22/05 (H) MINUTE(STA)
03/03/05 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 103

SHORT TITLE: CLAIMS AGAINST THE STATE

SPONSOR(S): REPRESENTATIVE(S) KELLY

01/24/05 (H) READ THE FIRST TIME - REFERRALS
01/24/05 (H) STA, JUD, FIN
03/03/05 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 127

SHORT TITLE: PFD:PEACE CORPS/DIPLOMAT/SANCTIONS

SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

02/04/05 (H) READ THE FIRST TIME - REFERRALS
02/04/05 (H) STA, FIN
03/03/05 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

JON BITTNER, Staff
to Representative Tom Anderson
Alaska State Legislature
POSITION STATEMENT: Introduced HJR 7 on behalf of
Representative Anderson, sponsor.

REPRESENTATIVE BILL STOLTZE
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: As co-sponsor of HB 48, answered questions
from the committee.

BEN MULLIGAN, Staff
to Representative Bill Stoltze
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testifying on behalf of Representative
Stoltze, co-sponsor of HB 48, addressed the questions that had
arisen during the last hearing on the bill.

LEONARD DEAL
Anchorage, Alaska
POSITION STATEMENT: Testified on behalf of himself to state his
concern about the way HB 48 is written.

WIN GRUENING, Chair
Alaska Committee
Juneau, Alaska
POSITION STATEMENT: Testifying on behalf of the Alaska
Committee, predicted that HB 48 may hinder genuine efforts to
improve Alaska's capital city.

REPRESENTATIVE MIKE KELLY
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as sponsor of HB 103.

HEATH HILYARD, Staff
to Representative Mike Kelly
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 103, on behalf of Representative Kelly, sponsor.

ROGER GAY

Big Lake, Alaska

POSITION STATEMENT: Testifying on behalf of himself, concluded that HB 103 would not benefit the state.

DOUG WOOLIVER, Administrative Attorney

Administrative Staff

Office of the Administrative Director

Alaska Court System

Anchorage, Alaska

POSITION STATEMENT: Explain the fiscal note to HB 103, on behalf of the Alaska Court System.

REPRESENTATIVE LESIL McGUIRE

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 127.

JUSTIN BARBALACE

Palmer, Alaska

POSITION STATEMENT: Testified on behalf of himself in support of HB 127.

CAROLYN GRAY

(No address provided)

POSITION STATEMENT: Testified on behalf of the Northern Alaska Peace Corps Friends during the hearing on HB 127, and stated that she thinks the bill would help increase the number of people who apply for the Peace Corps.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:02:13 AM](#). Present at the call to order were Representatives Gatto, Elkins, Gardner, and Seaton. Representatives Ramras and Gruenberg arrived as the meeting was in progress.

HJR 7-CONST AM: SEC. OF STATE REFERENCES

[8:03:24 AM](#)

CHAIR SEATON announced that the first order of business was HOUSE JOINT RESOLUTION NO. 7, Proposing amendments to the

Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor.

[8:03:25 AM](#)

JON BITTNER, Staff to Representative Tom Anderson, Alaska State Legislature, introduced HJR 7 on behalf of Representative Anderson, sponsor. He reported that back in 1970, when the legislature proposed a series of amendments to the Alaska State Constitution that changed the name of the Office of Secretary of State to the Office of the Lieutenant Governor, two references to "Secretary of State" were missed. Those references appear in Article 2, Section 5, and Article 3, Section 25. The proposed resolution would correct that oversight and put the issue on the ballot for a popular vote of the people.

[8:04:30 AM](#)

MR. BITTNER, in response to a question from Representative Gardner, said he is not aware of anyone who is opposed to [HJR 7].

[8:04:42 AM](#)

CHAIR SEATON, after ascertaining that there was no one to testify, closed public testimony.

[8:05:22 AM](#)

REPRESENTATIVE GARDNER moved to report HJR 7 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 7 was reported out of the House State Affairs Standing Committee.

HB 48-EXPENDITURE FOR CAPITOL CONSTRUCTION

[8:06:45 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 48, "An Act relating to a determination of costs attributable to relocating the legislature or the state capital or of constructing a new capitol building in the present capital city, and to a determination of all costs of retaining the existing capitol building and keeping the state capital and legislature in the present capital city; relating to voter

approval of certain bondable costs; and providing for an effective date."

[8:06:46 AM](#)

REPRESENTATIVE BILL STOLTZE, Alaska State Legislature, as co-sponsor of HB 48, indicated that, since the last hearing on the bill, many questions arose. He deferred further discussion of the bill to his staff.

[8:08:16 AM](#)

BEN MULLIGAN, Staff to Representative Bill Stoltze, Alaska State Legislature, testifying on behalf of Representative Stoltze, co-sponsor of HB 48, addressed the questions that had arisen during the last hearing on the bill. First, regarding whether the state would have any jurisdiction over a Juneau bond, for example, he said, "The city is free to apply for a bond to pay for a capitol building." Second, he provided definitions for "capitol" - the building and "capital" - the city serving as the seat of government. Third, regarding the meaning of "new," he said there had been questions as to whether that would include additions and renovations. He said that may be a matter for the committee to adopt an amendment to defined the term.

[8:09:40 AM](#)

CHAIR SEATON asked who has the authority to negotiate terms for lease agreements for buildings in the state, including a capitol.

[8:10:13 AM](#)

REPRESENTATIVE STOLTZE indicated that it would depend on the cost of the building. He noted that some leases in the past have been controversial.

[8:10:50 AM](#)

MR. MULLIGAN said he would look into an answer regarding at what amount the legislature would become involved.

[8:11:41 AM](#)

REPRESENTATIVE STOLTZE, in response to questions from Representative Gardner, said he believes the bill, as currently written, would require that any kind of restructuring of the

current use of the existing capitol that would involve partial use of another existing building would have to go before the voters, which is why his staff had suggested the committee may want to amend the bill.

[8:12:39 AM](#)

CHAIR SEATON reopened public testimony.

[8:12:55 AM](#)

REPRESENTATIVE STOLTZE clarified that [HB 48] is not about moving the capital, but is the public's say about the cost of building a capitol.

[8:13:59 AM](#)

CHAIR SEATON asked if Representative Stoltze has any suggestions for amendment language.

[8:14:41 AM](#)

REPRESENTATIVE STOLTZE responded that he respects the committee process in perfecting a bill. He said, "This is certainly my best stab at protecting the public's voice."

[8:15:30 AM](#)

CHAIR SEATON said he thinks the committee would agree that it doesn't want to "have something that would constrain the legislature from improving the capitol building." Furthermore, he encouraged Representative Stoltze to provide the committee with any "discrete language."

[8:15:51 AM](#)

REPRESENTATIVE STOLTZE said, "I want flexibility, not loopholes."

[8:16:03 AM](#)

LEONARD DEAL, testifying on behalf of himself, stated concern about the way the bill is written. He offered his understanding that the bill strongly weighs the costs - of either building, relocating, or improving - "on the Juneau side." He opined that the bill doesn't take into account what the majority of people in Alaska really want.

MR. DEAL directed attention to [the bill title], which read as follows:

"An Act relating to a determination of costs attributable to relocating the legislature or the state capital or of constructing a new capitol building in the present capital city, and to a determination of all costs of retaining the existing capitol building and keeping the state capital and legislature in the present capital city; relating to voter approval of certain bondable costs; and providing for an effective date."

MR. DEAL said his interpretation of "**determination of all costs of retaining the existing capitol building**" is that it would include the costs of remodeling. He noted that a capitol is anywhere the legislature meets.

[8:18:46 AM](#)

MR. DEAL made some comments related to a capital move.

[8:20:01 AM](#)

REPRESENTATIVE STOLTZE proffered that Mr. Deal is partially speaking to another bill sponsored by Representative Norman Rokeberg regarding "a competitive process" of capital location.

[8:20:04 AM](#)

CHAIR SEATON told Mr. Deal that that bill should be heard by the committee in about a week, at which point, Mr. Deal would be welcome to come back and testify on that issue.

[8:20:47 AM](#)

WIN GRUENING, Chair, Alaska Committee, noted that his committee is an all-volunteer group dedicated to improving and enhancing Alaska's capital city. He emphasized that the committee's current mission is to be proactive, whereas many years ago, it was more of a reactive mission - waiting for the next capital move effort to surface. He stated that the citizens of Alaska have repeatedly voted down efforts to move the capital. Mr. Gruening offered a brief history of results of the committee's proactivity. He said the impact of losing the capital would be

devastating to Juneau. He expressed the need to advocate for the best and most technologically advanced facilities.

[8:24:44 AM](#)

MR. GRUENING said whether it's the proposed legislation or some other proposal, some form of legislative approval will be required and the cost would be known in advance. He stated, "There is no need to amend the Frank Initiative to accomplish this." He stated his belief that the legislature is required to approve all leases in excess of \$1 million. He predicted that, unfortunately, HB 48 may hinder genuine efforts to improve Alaska's capital city.

[8:26:24 AM](#)

MR. GRUENING, in response to a request from Chair Seaton to conclude his testimony in the interest of time, stated that the FRANK Initiative was never designed to be "used in this way"; rather, it's intent was to prevent the wholesale move of a capital city without the electorate knowing the cost in advance. He reminded the committee members that the legislature can, in fact, evaluate and consider future proposals that will improve the facilities, without unnecessary, time-consuming, and expensive statewide votes.

[8:27:18 AM](#)

CHAIR SEATON closed public testimony.

[8:27:28 AM](#)

REPRESENTATIVE GARDNER said, when she was campaigning, one of the themes brought to her attention was that people didn't want to go to a vote over every little thing that is controversial. She said constituents come to their legislators with feedback and depend on them to address problems. Representative Gardner stated that she doesn't think HB 48 is necessary. She indicated that her constituents do not support a new capitol building.

[8:30:12 AM](#)

REPRESENTATIVE GATTO suggested that changing a room is renovation, while moving a building is beyond renovation. He illustrated several examples ranging between those two actions. Representative Gatto said the key question is: "Does the Frank Initiative indicate that whenever we're going to spend a

significant amount of money involving the only capital that the people of the state have, shouldn't they be entitled to a voice?" He said he thinks the answer to that question is yes.

[8:31:27 AM](#)

REPRESENTATIVE RAMRAS revealed that his constituents, although they would enjoy having better access to their capital, specifically told him, "Don't build a new one and don't spend the money to move the one that we have." He said he likes his office and the capitol building just as it is. He suggested that there are more important concerns before the legislature, such as the state's finances and the burden of the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS).

[8:32:51 AM](#)

REPRESENTATIVE STOLTZE said he and co-sponsor Representative Carl Gatto will "run the language proposals by members so we can come before a committee at your convenience." He stated that his primary goal is to "maintain the spirit of the Frank Initiative." He indicated that he thinks most constituents want to have a voice regarding the capitol building. He added, "The way this Frank Initiative is marketed, I think folks think they have the right to vote."

[8:33:53 AM](#)

CHAIR SEATON, regarding the concerns expressed relating to limiting the scope of the bill so that it does not include renovation or additions to the existing capitol building, asked Representative Stoltze to provide the committee with language addressing that concern.

[8:34:28 AM](#)

REPRESENTATIVE GRUENBERG reminded the committee that Avrum Gross had testified at a previous hearing on HB 48 [on 2/22/05], at which time he had promised to provide the committee with some written legal comments. He said he would like to get those comments as soon as possible.

[8:35:04 AM](#)

CHAIR SEATON asked all committee members to get those types of comments to his office as soon as possible.

[8:35:38 AM](#)

REPRESENTATIVE GRUENBERG stated that [HB 48] "is a bill to require a vote." He noted that there is a retroactivity clause, and he questioned how a bill requiring a vote could be retroactive.

[8:36:04 AM](#)

CHAIR SEATON announced that HB 48 was heard and held.

HB 103-CLAIMS AGAINST THE STATE

[8:36:22 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 103, "An Act requiring an actionable claim against the state to be tried without a jury."

[8:36:23 AM](#)

REPRESENTATIVE MIKE KELLY, Alaska State Legislature, as sponsor of HB 103, noted that the proposed legislation would change a state law back to its original form, wherein cases against the state were tried by a judge, rather than a jury. He said the state has a right to determine how it will be sued. He noted that in [1975], at the request of the University of Alaska, the original law was changed to provide for jury trials when the state was sued. He opined that the use of a judge for trials against the state would be more appropriate, and he said the chief council of the university has been contacted and has no objection to [HB 103].

[8:38:07 AM](#)

REPRESENTATIVE KELLY said some of the problems that have arisen from the current law are that the state is seen as a "deep pocket" and, thus, suits against the state may be taken more casually than suits between parties other than the state. He said HB 103 would not limit access to the judicial system or limit the right to appeal. He stated his belief that HB 103 would provide adequate protections to those who would be aggrieved against the state. Furthermore, he said he believes the proposed legislation would reduce costs and increase efficiency of the state's court system, while protecting against awards by juries that seem "not to pass the laugh test."

[8:39:43 AM](#)

HEATH HILYARD, Staff to Representative Mike Kelly, Alaska State Legislature, on behalf of Representative Kelly, sponsor, directed attention to a document included in the committee packet labeled, "Immunity." He noted that the first page of the document addresses sovereign immunity, while the rest of the document includes other types of immunities not pertaining to the bill.

[8:41:49 AM](#)

REPRESENTATIVE KELLY, in response to a question from Representative Gruenberg, said he thinks that sometimes judges award greater liability and more significant recovery, while other times juries do so.

[8:42:14 AM](#)

REPRESENTATIVE GRUENBERG stated his understanding that in many cases people prefer to go to a judge rather than a jury, because juries, in many cases, tend to render smaller verdicts than judges.

[8:43:41 AM](#)

REPRESENTATIVE KELLY said he thinks the heart of HB 103 is the issue of sovereign immunity.

[8:44:40 AM](#)

REPRESENTATIVE GRUENBERG remarked that it's tougher to get a verdict in a jury trial than in a judge trial. He said there are lots of strategic issues regarding when to go to a judge versus a jury. He noted that some of those issues are mentioned on the second page of the state's fiscal note [included in the committee packet].

[8:45:57 AM](#)

REPRESENTATIVE KELLY responded that he has been visited by trial lawyers in the state, and they have remained neutral. He reiterated that the heart of HB 103 is to protect the state in jurisdictions where "this may have been a problem." He mentioned aviation and search and rescue. He noted that there

is a handout [included in the committee packet] showing samples of jury awards in four different cases.

[8:47:10 AM](#)

ROGER GAY, testifying on behalf of himself, told the committee that he is from Big Lake, Alaska. He said, "If you let the state decide in favor of the state, you will forfeit the presumption of fairness." He stated his belief that if "the Miller Reach fire" had been tried by a judge, the state would not have prevailed. He said, "The jury did not seem to be able to separate their feelings of support for the fire fighters from the obvious incompetence of the state's handling of the fires." He posited that if the committee is trying to "tilt the scales of justice in favor of the state," it might be better off letting the jury make the decisions. Mr. Gay concluded that HB 103 would not benefit the state.

[8:48:49 AM](#)

DOUG WOOLIVER, Administrative Attorney, Administrative Staff, Office of the Administrative Director, Alaska Court System, told the committee that he worked together with Gail Voigtlander from the Department of Law (DOL) to figure out that there are an estimated four jury trials a year where the state is a defendant, and each of those trials costs an average of \$4,000. He noted that that money would be saved if the trial had been in front of a judge. Mr. Wooliver emphasized that the court has a decades-old tradition of not supporting or opposing legislation and does not support or oppose HB 103. He said he merely wanted to explain the fiscal note.

[8:50:49 AM](#)

MR. WOLVER, in response to a question from Representative Gatto, explained that the cost of a jury trial is explained in part by the fact that jury trials typically take longer than court-tried trials. He said the big savings is not getting rid of time, but getting rid of the jury fees.

[8:53:48 AM](#)

CHAIR SEATON, in response to Representative Gruenberg, asked that questions regarding the detailed interactions of the court be taken up in the House Judiciary Standing Committee.

[8:54:37 AM](#)

REPRESENTATIVE GATTO suggested that [HB 103] would put a single person in the position of being "judge, juror, and executioner."

[8:55:06 AM](#)

MR. WOOLIVER said he supposes it would, but judge-tried trials are a regular part of the system. He said, "The judge is the fact finder in those cases, as opposed to a jury."

[8:55:34 AM](#)

MR. WOOLIVER, in response to a request from Chair Seaton to clarify what an actionable claim against the state would be, said [HB 103] would cover civil claims where the state is the defendant.

[8:55:52 AM](#)

CHAIR SEATON closed public testimony.

[8:56:32 AM](#)

REPRESENTATIVE GRUENBERG said he was practicing law when the law was changed in [1975], and some cases were better tried by judges, while others were better before juries. He recommended allowing the decision to be made on a case-by-case basis.

[8:58:35 AM](#)

REPRESENTATIVE GARDNER recommended being careful in reading the previously mentioned sample jury awards, because the specifics of the case are not provided.

[8:59:31 AM](#)

REPRESENTATIVE KELLY said the point made by Representative Gruenberg about the sovereign maintaining the option of choosing is not unusual in the U.S. He said, "It goes all the way from very restrictive in the U.S. to actually quite permissive." He reiterated that HB 103 would not take away the option for appeal.

[9:00:56 AM](#)

REPRESENTATIVE GRUENBERG said the legislature can decide which types of cases a person can sue the state over and whether or

not there will be a jury. He said the national historical trend has been to allow states to be sued by jury trials. He asked if there are any other states that Representative Kelly is aware of that have allowed a jury trial and then taken away that jury trial after some time.

[9:02:32 AM](#)

REPRESENTATIVE KELLY said he doesn't know.

[9:02:45 AM](#)

MR. HILYARD said Article 2, Section 21, in the Alaska State Constitution notes that a few state constitutions still prohibit all suits against the state. He offered some history regarding the law in question.

[9:04:22 AM](#)

REPRESENTATIVE GRUENBERG indicated that the case involving the university [back in 1975] highlights his previous point that defendants often want juries.

[9:04:52 AM](#)

REPRESENTATIVE KELLY urged the committee to pass HB 103 out of committee.

[9:05:00 AM](#)

REPRESENTATIVE ELKINS moved to report HB 103 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 103 was reported out of the House State Affairs Standing Committee.

HB 127-PFD:PEACE CORPS/DIPLOMAT/SANCTIONS

[9:05:43 AM](#)

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 127, "An Act relating to service in the peace corps and to service as a diplomat in the United States Foreign Service as allowable absences from the state for purposes of eligibility for permanent fund dividends and to the period for filing an application for a permanent fund dividend; authorizing the Department of Revenue to issue administrative orders imposing sanctions for certain misrepresentations or other actions

concerning eligibility for a permanent fund dividend and providing for administrative appeal of those orders; and providing for an effective date."

[9:05:44 AM](#)

REPRESENTATIVE LESIL MCGUIRE, Alaska State Legislature, as sponsor of HB 127, stated that the proposed legislation would reinstate allowable absences for Peace Corps volunteers, so that they could receive the Alaska permanent fund dividend (PFD). She said the allowable absence was eliminated for Peace Corps volunteers in [1998]. Two years later, a constituent who had been serving in the Peace Corps in Nigeria, spoke to Representative McGuire about losing the PFD. Representative McGuire spoke of the service that Peace Corps volunteers perform, both to the Third World countries to which they are signed and to the U.S. She said the woman who spoke with her was a lifelong Alaskan who did not feel supported by her state.

[9:08:48 AM](#)

REPRESENTATIVE MCGUIRE noted that the other half of bill would allow the Department of Revenue to administer penalties, which she predicted would increase the number of fines that the department is able to impose on those folks who have clearly engaged in fraudulence. She said the penalties are all existing legal terms; the intent is to give the department the power to make the individual forfeit the PFD and to subject a fine on that individual.

[9:10:10 AM](#)

REPRESENTATIVE MCGUIRE explained that the reason for dropping the fine from \$5,000 to \$3,000 is that "we know that we can impose, administratively, a civil fine of \$3,000, but there's case law that indicates that we cannot for \$5,000." She offered further details. She noted that there currently are 42 [Alaskan] Peace Corps volunteers, and if the department is allowed to impose sanctions for fraudulent PFD claims, that will more than pay for those.

[9:11:38 AM](#)

REPRESENTATIVE MCGUIRE said some people don't like the dividend itself, for various reasons, and she said there is a time and place for that discussion. She noted that another concern some people have expressed is in regard to creating more and more

exemptions to the PFD program, instead of keeping the dividend for the "true Alaskans." Representative McGuire said she agrees that the PFD should be given to true Alaskans and supports ratcheting up the penalties for fraud. She indicated that the Peace Corps is a recognized program that Alaskans have committed to, not just some trip they take without an end date.

[9:13:04 AM](#)

REPRESENTATIVE MCGUIRE stated that there has been concern about the 10,000-plus military personnel and their families who are receiving [the PFD] - many of them who have not set foot in Alaska for over a decade. She indicated that she is not trying to take away from the service that the fine men and women give in the military. She emphasized that those who join the Peace Corps are also answering a call to serve, but on a different level. Representative McGuire noted that President George W. Bush, in a recent State of the Union address, made a call to Americans to come back to the Peace Corps. She reported that roughly 85 percent of the Peace Corps volunteers who have served [from] Alaska have returned home, and they have a lot to offer the state when they return. Many of them teach.

[9:15:19 AM](#)

REPRESENTATIVE GARDNER said she likes HB 127, particularly as it pertains to the Peace Corps. She offered her understanding that Peace Corps volunteers not only share information about "us" with people around the world, but they bring back "a greater understanding," and they do so at great sacrifice to themselves. She stated her problem with the bill is in regard to the inclusion of diplomats to the U.S. Foreign Service. She said that, unlike the Peace Corps, those in the U.S. Foreign Service have made a career choice, and they are paid much better and receive benefits. Representative Gardner, in response to a question from Chair Seaton, said she would like to know if the sponsor would accept a conceptual amendment to remove the language including the U.S. Foreign Service.

[9:17:28 AM](#)

REPRESENTATIVE MCGUIRE said Senator Fred Dyson had requested that the U.S. Foreign Service be included. She offered her understanding that there are currently 36 [Alaskans] in the U.S. Foreign Service. She said that part of the bill is "less dear" to her; however, it is worthy of discussion. She noted that the

Peace Corps volunteers were included in the exemptions from 1983-1998, whereas the diplomats have never been included.

[9:18:51 AM](#)

REPRESENTATIVE GRUENBERG noted that "diplomat" may be a term of art. He said a secretary, delivery person, or janitor who works in the U.S. Foreign Service may not be included, but they should be. He suggested that those who work in the United Nations, or relief organizations, or Doctors Without Borders are often in harms way and could be considered.

[9:20:19 AM](#)

REPRESENTATIVE GRUENBERG directed attention to page 4, lines 13-19, regarding regulations and application. He stated he is quite sure that the Department of Revenue already has general regulatory authority, and he said he is wondering why that section of the bill is necessary.

[9:21:09 AM](#)

REPRESENTATIVE MCGUIRE said she wants to be careful and specific regarding regulations. She indicated that [in this case] it is better to give specific authority to the legislature to craft regulations. Representative McGuire continued as follows:

I think we've entered into a very interesting and potentially dangerous time in Alaska, over the last decade, with respect to regulations: The folks that are writing them are not elected; they don't ever come back before the voters; there is virtually no recourse for the folks who are impacted by them; the process is convoluted, at best; and it is my personal opinion that, as law makers, the more specific we can be about the kind of regulations and the regulatory authority that we want, the better off we are.

[9:22:42 AM](#)

REPRESENTATIVE GRUENBERG responded, "This doesn't require them, it gives them discretion." He noted that the language read that the "Department of Revenue may immediately adopt regulations necessary"; therefore it is not necessary to change the effective date.

[9:23:17 AM](#)

REPRESENTATIVE McGUIRE revealed that "this" was a little bit controversial in the beginning, because there was concern that "all of a sudden, many Alaskans out there who may be ... misrepresenting themselves would suddenly be subject to penalties they hadn't been [subject to previously]." She added, "So, we were delicate in the area."

[9:24:07 AM](#)

REPRESENTATIVE RAMRAS said President George W. Bush talks about "the armies of compassion," and he said he thinks Representative McGuire is "right on the mark here." He stated his support of [HB 127].

[9:24:55 AM](#)

CHAIR SEATON said an analysis was done last year on all the categories of exemptions, and it was found that in the largest categories, 83 percent of the people never returned to Alaska. He noted that [last year's] House State Affairs Standing Committee had discussed holding the PFD of qualified people who leave Alaska for a period of time, which would mean that those people would have to come back and reestablish their physical presence in Alaska, at which time they would receive the withheld dividends. He indicated that it would help ensure that the highly motivated and trained people would have additional motivation to return to Alaska.

[9:27:43 AM](#)

REPRESENTATIVE McGUIRE indicated that she would be more than happy to cosponsor legislation regarding that idea; however, she warned that the legislature needs to be careful about putting [someone's dividend money] into a trust without his/her consent. She noted that the average number of Peace Corps volunteers has not gone up over the years; it's about 35. She said the idea that someone would volunteer for the Peace Corp and have the incentive be a \$900 check doesn't seem likely. Representative McGuire said the Peace Corps volunteer is committed to two years, whereas those in the military are there for varying amounts of time, which brings up different concerns. She stated her willingness to work with the committee to help ensure the PFD goes to those whose intent is to return to Alaska.

[9:31:42 AM](#)

REPRESENTATIVE McGUIRE, in response to a question from Representative Gatto, said that a spouse or independent of a Peace Corps volunteer who went with the volunteer would not qualify for the PFD. She said there are only two exemptions to that, which are for those in the U.S. Congress or Senate, and for those in the military.

[9:32:58 AM](#)

REPRESENTATIVE McGUIRE, in response to a question from Representative Gatto regarding whether someone volunteering time in Sri Lanka after the recent Tsunami wouldn't be just as deserving of a PFD, noted that the person in Sri Lanka can decide to go home whenever he/she wants, whereas the Peace Corps volunteer has committed to two years.

[9:35:11 AM](#)

REPRESENTATIVE McGUIRE, in response to questions from Representative Gatto relating to diplomats, confirmed that the term diplomat is defined, and she stated that dependents and spouses of those in the U.S. Foreign Service would not be included in the exemption.

[9:36:41 AM](#)

REPRESENTATIVE McGUIRE, in response to questions from Chair Seaton, said she remembered discussion from the previous year regarding an exemption for those out of the state for medical reasons, but she said she can't recall whether the dependents of the person were included.

[9:37:10 AM](#)

JUSTIN BARBALACE, testifying on behalf of himself in support of HB 127, told the committee that he is a Peace Corps volunteer whose two-year commitment will begin in June of this year. He said HB 127 would make it possible for him to pay his student loans. He offered a brief history of the Peace Corps, and he said the state should take the responsibility to support Peace Corps volunteers from Alaska.

[9:41:15 AM](#)

MR. BARBALACE, in response to a question from Representative Gardner, said Peace Corps volunteers' pay is based on the

average that a person in the country in which they are serving makes.

9:41:39 AM

CAROLYN GRAY, testifying on behalf of the Northern Alaska Peace Corps Friends, said she is a returned Peace Corps volunteer who served in Panama and, after attending graduate school at Stanford University, came back to Alaska to teach social studies and Spanish for 26 years. She said she volunteers to assist the Peace Corps in its recruiting and educational efforts. Ms. Gray said recruiting has been a difficult process in Alaska since 1998. She said the group thanks Representative McGuire for introducing HB 127, because she said she thinks it would help increase the number of people who apply for the Peace Corps.

MS. GRAY noted, "Alaskan Peace Corps volunteers and diplomats are part of our foreign policy." She said she thinks the Peace Corps brings expertise back to Alaska. She said that poverty problems are solved overseas, and if those problems are not solved, they lead to general global unrest. Volunteers who return to the state have knowledge of an additional language, as well as other cultures, which can help in working with the many types of groups living in Alaska.

MS. GRAY reported that the University of Alaska, for the first time, has a Masters International program, in conjunction with the Peace Corps. It was begun in the College of Rural Development and the Natural Resources Management program. To be part of the program, a person must be accepted into the Peace Corps and by the University of Alaska, Fairbanks. The applicant has to have a major that applies to forestry, rural development, Alaska Native studies, business administration, natural resources management, political science, economics, northern studies, or a related field. She offered further details.

MS. GRAY said Peace Corps service was included as an allowable absence until 1998. She said [the terrorist attacks of September 11, 2001] brought home to Americans that "these efforts are needed as part of their efforts in foreign policy, which will lead to improvement in national defense, as well." She indicated her support of HB 127.

9:45:44 AM

MS. GRAY, in response to questions from Chair Seaton, said those in the university's program are still students under the

program; however, she doesn't think they are covered under the student exemption.

[9:46:20 AM](#)

CHAIR SEATON suggested Ms. Gray check on that, because full-time graduate students would qualify for an allowable absence. He asked if Ms. Gray was testifying on the second part of bill, as well, regarding those in the U.S. Foreign Service.

[9:47:17 AM](#)

MS. GRAY replied that she would personally be in favor of that, "because it is equally important in terms of national defense."

[9:48:16 AM](#)

CHAIR SEATON closed public testimony.

[9:48:28 AM](#)

REPRESENTATIVE GARDNER [moved to adopt] Conceptual Amendment 1, which read as follows [original punctuation provided]:

Page 1, Lines 1&2;

Delete; "and to service as a diplomat in the United States Foreign Service"

Page 3, Line 2

Delete "(15) serving as a diplomat in the United States Foreign Service"

Instructions to Legislative Legal;

Make corresponding amendments and renumber accordingly

REPRESENTATIVE GARDNER said she had also handed out a sheet entitled, "Benefits of foreign service officers". She said it "comes to the core of why I think the Foreign Service should be handled differently than the Peace Corp." She reiterated that people in the Peace Corp make a clear, long-term, defined sacrifice, whereas those in the Foreign Service have made a career choice. She offered further details. Representative Gardner said she would not support allowing dividends for Foreign Service workers.

[9:50:12 AM](#)

CHAIR SEATON asked if there was any objection to [Conceptual Amendment 1]. There being none, Conceptual Amendment 1 was adopted.

[HB 127 was heard and held.]

[9:50:43 AM](#)

CHAIR SEATON recessed to a call of the chair at [9:51:30 AM](#). [The meeting was reconvened on Saturday, March 5, at 9:38 a.m.]