

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

January 26, 2006
8:05 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 349

"An Act relating to legislator salary and benefits; establishing the Citizens' Commission on Legislative Salary and Benefits and defining its powers and duties and abolishing the State Officers Compensation Commission; and providing for an effective date by repealing secs. 9 and 12, ch. 124, SLA 1986."

- HEARD AND HELD

HOUSE BILL NO. 273

"An Act relating to the dividends of individuals claiming allowable absences; and providing for an effective date."

- MOVED CSHB 273(STA) OUT OF COMMITTEE

CONFIRMATION HEARINGS(S)

Commissioner, Department of Administration

Scott J. Nordstrand - Juneau

- CONFIRMATION ADVANCED

Lieutenant Governor Designee

William A. Corbus - Juneau

- CONFIRMATION ADVANCED

Alaska Public Offices Commission (APOC)

William Walters - Fairbanks

- CONFIRMATION ADVANCED

HOUSE BILL NO. 278

"An Act relating to the Alaska Municipal Bond Bank Authority; permitting the Alaska Municipal Bond Bank Authority or a subsidiary of the authority to assist state and municipal governmental employers by issuing bonds and other commercial paper to enable the governmental employers to prepay all or a portion of the governmental employers' shares of the unfunded accrued actuarial liabilities of retirement systems and authorizing governmental employers to contract with and to issue bonds, notes, or commercial paper to the authority or its subsidiary corporation for that purpose; and providing for an effective date."

- MOVED HB 278 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 349

SHORT TITLE: COMMISSION ON LEG. COMP. & ALLOWANCES

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

01/09/06	(H)	PREFILE RELEASED 1/6/06
01/09/06	(H)	READ THE FIRST TIME - REFERRALS
01/09/06	(H)	STA, FIN
01/26/06	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 273

SHORT TITLE: PFD: DELAY PAYMENT FOR ALLOWABLE ABSENCES

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

04/18/05	(H)	READ THE FIRST TIME - REFERRALS
04/18/05	(H)	STA, FIN
05/05/05	(H)	STA AT 8:00 AM CAPITOL 106
05/05/05	(H)	Heard & Held
05/05/05	(H)	MINUTE(STA)
01/12/06	(H)	STA AT 8:00 AM CAPITOL 106
01/12/06	(H)	Scheduled But Not Heard
01/17/06	(H)	STA AT 8:00 AM CAPITOL 106

01/17/06 (H) Heard & Held
01/17/06 (H) MINUTE(STA)
01/19/06 (H) STA AT 8:00 AM CAPITOL 106
01/19/06 (H) Heard & Held
01/19/06 (H) MINUTE(STA)
01/26/06 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 278

SHORT TITLE: RETIREMENT SYSTEM BONDS

SPONSOR(S): REPRESENTATIVE(S) HAWKER

04/19/05 (H) READ THE FIRST TIME - REFERRALS
04/19/05 (H) STA, FIN
01/12/06 (H) STA AT 8:00 AM CAPITOL 106
01/12/06 (H) Heard & Held
01/12/06 (H) MINUTE(STA)
01/17/06 (H) STA AT 8:00 AM CAPITOL 106
01/17/06 (H) Heard & Held
01/17/06 (H) MINUTE(STA)
01/19/06 (H) STA AT 8:00 AM CAPITOL 106
01/19/06 (H) Heard & Held
01/19/06 (H) MINUTE(STA)
01/24/06 (H) STA AT 8:00 AM CAPITOL 106
01/24/06 (H) Heard & Held
01/24/06 (H) MINUTE(STA)
01/26/06 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE BRUCE WEYHRAUCH

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HB 349, as sponsor; testified during the hearing on HB 273, as sponsor.

JACQUELINE TUPOU, Staff
to Representative Bruce Weyhrauch
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Weyhrauch, sponsor, reviewed the changes made in Version L of HB 349.

CHRIS POAG, Assistant Attorney General (AG)
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 273.

SHARON BARTON, Director
Permanent Fund Dividend Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 273.

MARY LOU KELSEY
Homer, Alaska

POSITION STATEMENT: Testified on behalf of herself in opposition to HB 273.

TRACIE L. BROWN
Homer, Alaska

POSITION STATEMENT: Testified on behalf of herself during the hearing on HB 273.

MIKE MILLIGAN
Kodiak, Alaska

POSITION STATEMENT: Testified on behalf of himself during the hearing on HB 273.

REPRESENTATIVE MIKE HAWKER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 278.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at [8:05:58 AM](#). Representatives Gatto, Elkins, Lynn, Gardner, and Seaton were present at the call to order. Representatives Ramras and Gruenberg arrived as the meeting was in progress.

HB 349-COMMISSION ON LEG. COMP. & ALLOWANCES

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 349, "An Act relating to legislator salary and benefits; establishing the Citizens' Commission on Legislative Salary and Benefits and defining its powers and duties and abolishing the State Officers Compensation Commission; and providing for an effective date by repealing secs. 9 and 12, ch. 124, SLA 1986."

8:06:50 AM

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, introduced HB 349, as sponsor. He paraphrased part of his sponsor statement [included in the committee packet], which read:

House Bill 349 creates a commission that will make recommendations regarding legislative pay. It does not raise salaries of legislators, but does provide an increase for the Speaker of the House and President of the Senate from \$500 per year to \$500 per month.

REPRESENTATIVE WEYHRAUCH indicated which version of the bill he would like the committee to work with.

8:08:50 AM

REPRESENTATIVE LYNN moved to adopt committee substitute (CS) for HB 349, Version 24-LS1391\L, Wayne, 1/25/06, as a work draft. There being no objection, Version L was before the committee.

8:09:41 AM

JACQUELINE TUPOU, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, on behalf of Representative Weyhrauch, sponsor, reviewed the changes made in Version L of HB 349. She said most of the changes were just a matter of semantics and logistical problems. One substantive change was to the timeframe of the bill, making it "a little more indefinite." She said that will allow the commission to flesh out what it wants its process to be.

8:10:30 AM

REPRESENTATIVE GARDNER said until HB 349, she wasn't aware that current statute already provides a commission to review legislative salaries, and that that commission includes a business executive, a representative from a nonpartisan voters' organization, a person with public administration experience, and a representative of a labor organization appointed by the governor and confirmed by the legislature. Under the new plan, she noted, the members of the commission would be appointed by the President of the Senate and the [Speaker] of the House and there would be no provision to have those appointees confirmed

by the legislature. She stated that she is uncomfortable with potentially removing all public participation.

[8:11:18 AM](#)

MS. TUPOU explained that the legislature currently has the power to set its own pay and can't delegate that to someone else; therefore, "for that citizens' commission currently on the statutes book to be implemented there would have to be a constitutional change."

[8:12:03 AM](#)

REPRESENTATIVE WEYHRAUCH noted that attorneys said delegating the authority to set legislative pay to the executive branch seems to cause a problem between separation of powers. Regarding Representative Gardner's concern about public notice, he said, "... You can bet that if the legislature's going to raise its pay, there better be a public process or there'll be heck to pay from the public."

REPRESENTATIVE GARDNER stated for clarification, "That's not in this bill; that's a decision that could be made down the road one way or the other"

[8:13:12 AM](#)

MS. TUPOU directed attention to page 4, beginning on line 5 of Version L, which read:

The commission shall give reasonable public notice of its preliminary findings and recommendations, solicit public comments, and give due regard to the public comments, before submitting a final report under (d) of this section.

[8:13:26 AM](#)

REPRESENTATIVE GARDNER said, "I'll stand corrected."

[8:13:32 AM](#)

REPRESENTATIVE LYNN asked if there is anything in the bill that relates to "office allowance." He said that has not been changed for several years.

[8:13:46 AM](#)

REPRESENTATIVE WEYHRAUCH replied, "No, that per diem - none of that - is addressed. All this does is set a salary."

MS. TUPOU, in response to a comment by Representative Weyhrauch, noted that legislators are currently paid at a range 7.

REPRESENTATIVE WEYHRAUCH surmised, "Per diem, I suppose, as part of ... pay to a legislator would be considered, but that's up to the commission and the legislature. All this does is really set up the mechanism for determining all this."

[8:14:41 AM](#)

REPRESENTATIVE LYNN concluded, "So, ... they could look at office lounge, or per diem, or anything else."

[8:14:54 AM](#)

REPRESENTATIVE WEYHRAUCH said, "There's no restriction on what they would look at."

[8:15:08 AM](#)

MS. TUPOU, in response to a follow-up question from Representative Lynn, surmised that a legislative page is paid at least at a Range 10.

[8:15:35 AM](#)

REPRESENTATIVE GATTO said, "Separate from this group is the \$500. My first impression is ... we're making a decision on just two members. Wouldn't the committee be a better group to make the determination of \$500, whether it's a month or a year ...?"

[8:16:05 AM](#)

REPRESENTATIVE WEYHRAUCH responded as follows:

When I read through the statute in preparing for the bill, I saw that those positions were already segregated out, and it already said "\$500 per year" for the [Senate] President and the Speaker [of the House]. And so, ... just in the process of drafting the bill ... with the drafter, I said, "Well, change the ... word 'year' to 'month'." So, the statute had

already segregated those offices out and ... I don't remember the year that that was implemented - decades ago. And again, just knowing how much work the Speaker [of the House] and the [Senate] President do throughout the year, every day, I just thought \$500 per month, ... even that, seemed (indisc.) compared to the workload.

8:16:50 AM

MS. TUPOU noted that the Alaska State Constitution shows that segregation.

8:17:10 AM

REPRESENTATIVE GATTO asked if Legislative Council is currently authorized to change "our salary."

8:17:24 AM

MS. TUPOU responded that the legislative body, as a whole, has the authority to set their own pay.

8:17:46 AM

MS. TUPOU, in response to a follow-up question from Representative Gatto, said HB 349 provides that the commission would release [its preliminary findings]. Ninety days from the release date, if Legislative Council does not take any action, the report of those preliminary findings would be adopted in the policies therein by Legislative Council.

8:18:07 AM

REPRESENTATIVE GARDNER stated her concern regarding the lack of public process. Even though the language, as previously discussed, would require the commission to report to Legislative Council, the language on page 4, line 17, shows that Legislative Council "may publish the final report". She emphasized the word "may" and said it makes her a little uncomfortable that there would be no requirement that the report be made available to the public.

MS. TUPOU surmised that the reason for the use of the permissive "may" is because the commission would have already printed a report and distributed it to the public. If Legislative Council

doesn't make any changes, she suggested, it would be redundant to publish the report again.

[8:19:38 AM](#)

REPRESENTATIVE GARDNER asked, "If [Legislative] Council doesn't act, and the recommendations become public, then there isn't necessarily any report or announcement of that. Is that correct?"

[8:19:58 AM](#)

MS. TUPOU replied, "Not past the commission's report." She explained that if Legislative Council accepts the report from the commission by doing nothing, then that becomes "the report" at that point.

[8:20:37 AM](#)

MS. TUPOU, in response to a request for clarification from Chair Seaton, said the language in the bill regarding public notice [is on page 4, lines 5-8] and follows the previously noted language about the commission's preliminary findings. She reiterated that if Legislative Council does nothing, the final report that was provided by the commission becomes policy.

[8:21:30 AM](#)

CHAIR SEATON pointed out that there is nothing in the language that says the final report is given to the public. He remarked that the final report could be significantly different than the preliminary report. He asked, "Was it the intent to not make that public?"

[8:22:02 AM](#)

REPRESENTATIVE WEYHRAUCH suggested the concern stated by both Representative Gardner and Chair Seaton is in reference to the use of the word "may" on page 4, line 17. He mentioned changing "may" to "shall" to ensure that the report is made public. He said there is no desire to pull the wool over anyone's eyes. He added, "Ultimately the truth will out." He asked if the committee would like a conceptual amendment to change "may" to "shall".

[8:22:57 AM](#)

CHAIR SEATON answered in the affirmative. He said the committee would probably offer a conceptual amendment to require that the final report be sent to Legislative Council and to the public.

8:23:16 AM

REPRESENTATIVE GRUENBERG mentioned the "Madison amendment," which he said provided that U.S. Congress may not raise its own salary. He explained that this means no salary increase can become effective until after the next Congress convenes. He said when he served [in the legislature] in the past, he introduced a ratification of the Madison Amendment, which was not adopted. He stated he thinks it would be a good idea to add that provision to HB 349. He clarified that the language would provide that no legislative pay raise can become effective until after the next election. That way, he said, people will have a chance to vote "if they don't like the way this is going to take place."

8:24:44 AM

REPRESENTATIVE WEYHRAUCH stated that he is not in favor of adding that language at this point, but would like to have a chance to consider that issue separately.

8:25:11 AM

CHAIR SEATON clarified that no amendments had been made yet and won't be until after public testimony has been taken.

8:25:38 AM

REPRESENTATIVE GARDNER turned to [the last sentence] of Section 13 [on page 4], which read as follows:

Any part of the commission's report not rejected or amended by the Alaska Legislative Council and any amendment to the report made by the Alaska Legislative Council under AS 24.10.130 take effect on the first day of the first full month following the last day of the legislative session in which the final report is issued or the amendment is passed.

REPRESENTATIVE GARDNER asked if that means that if the commission recommends that legislators are paid \$100,000, for example, and Legislative Council amends that to \$120,000, that

would automatically become law without any other review, debate, or discussion.

[8:26:10 AM](#)

MS. TUPOU suggested that Mr. Wayne, the attorney who drafted the bill, would be better suited to answer questions regarding wording.

[8:27:14 AM](#)

CHAIR WEYHRAUCH, in response to follow-up questions from Representative Gardner, reiterated that there is no intent to "sneak one past anyone," and he would not object to a conceptual amendment that would include some sort of discussion or review "by somebody else."

[8:27:56 AM](#)

MS. TUPOU said it's important to note that the legislature has the power to set its own pay and cannot delegate that job to someone else. She said, "... What we've tried to do is put the public in the process, because they currently aren't."

[8:28:12 AM](#)

REPRESENTATIVE WEYHRAUCH recognized that unfortunately many amendments are adopted without any public comment or testimony whatsoever and become law without people knowing the effect or meaning of them.

[8:28:30 AM](#)

CHAIR SEATON directed attention to Section 8 of Version L, which read as follows:

***Sec.8.**AS 39.23.210 is amended to read:

A member of the commission shall meet the qualifications of AS 39.05.100 and may not be employed by the state, including the University of Alaska, serve as a member of another state board, commission, or authority, or hold elective state or municipal office during membership on the commission.

CHAIR SEATON indicated that that language shows a significant change in the bill.

[8:29:48 AM](#)

REPRESENTATIVE GRUENBERG directed attention to page 4, line 19 and said potentially [the commission] could give the report five days before the end of the session without giving anyone a chance for anyone to do anything, and it would take effect immediately. He questioned why the phrase, "[DURING THE FIRST 10 DAYS OF A LEGISLATIVE SESSION]" was deleted.

[8:30:46 AM](#)

REPRESENTATIVE WEYHRAUCH said he views that decision as "wanting to give some more leeway to both the legislature and the commission in reporting, as opposed to restricting it to providing it within the first 10 or 15 days and [putting] some arbitrary number on it."

[8:31:20 AM](#)

REPRESENTATIVE GRUENBERG said he thinks it would do just the opposite. He explained that that effective date would remain the same, which would be after session ended. By allowing the report to be given later, less time is being given for public scrutiny, he said.

[8:31:50 AM](#)

REPRESENTATIVE WEYHRAUCH said he thought 15 days would be too restrictive.

[8:32:07 AM](#)

MS. TUPOU pointed out that if Legislative Council does not take action, there would always be a 90-day review period "before it would take effect." In response to request a from Representative Gruenberg, she offered to find where that language is in the bill.

[8:33:01 AM](#)

CHAIR SEATON said he wanted to clarify that the report published by Legislative Council would be the final report issued.

[8:33:16 AM](#)

REPRESENTATIVE WEYHRAUCH added that Legislative Council serves as a conduit for the commission's report. In response to Chair

Seaton, he confirmed that the dates that are being discussed are in regard to the issuance of the Legislative Council report.

[8:33:41 AM](#)

REPRESENTATIVE GRUENBERG said the only reference to "90 days" that he could find in the bill is on page 5, line 24. He stated that lots of commissions make their reports on the first day of the session. He asked the sponsor to consider that, and said he would be inclined to offer such an amendment.

[8:34:33 AM](#)

REPRESENTATIVE GATTO turned to page 4, line 22, and suggested the word "take" should have an "s" at the end.

[8:35:11 AM](#)

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

CHAIR SEATON announced that HB 349 was heard and held.

HB 273-PFD: DELAY PAYMENT FOR ALLOWABLE ABSENCES

[8:35:58 AM](#)

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 273, "An Act relating to the dividends of individuals claiming allowable absences; and providing for an effective date."

[Before the committee was CSHB 273, Version 24-LS0871\G, Cook, 5/3/05.]

[8:36:18 AM](#)

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, as sponsor of HB 273, stated his concern regarding the legal implications of allowing stair-stepping exemptions, for example. He said he spoke with the director of the Permanent Fund Dividend Division and the Office of the Attorney General and suggested representatives from those entities present feedback to the committee.

[8:38:31 AM](#)

CHRIS POAG, Assistant Attorney General (AG), Civil Division, Department of Law, said he has been attending hearings on the bill and heard discussion on amendments, some of which raise equal protection concerns. He mentioned an amendment idea from Representative Gardner that he said would not be a problem. He mentioned an amendment idea by Representative Lynn that would exempt out the allowable absences of the military. He said given the statistics he has seen, he has a problem with treating that class separately.

[8:39:45 AM](#)

CHAIR SEATON clarified that the committee had adopted an amendment that would let anyone with an allowable absence receive his/her permanent fund dividend (PFD) for the first two years and after that it would be held until the person returned to Alaska. He said that applied to all classes of allowable absences. He asked Mr. Poag to confirm that that amendment is the one he did not think would raise a constitutional problem.

[8:40:09 AM](#)

MR. POAG responded that the amendment does not pose a problem "on the face of it." He said there is a common sense approach that the longer a person is gone, the less likely he/she is to return. He said, "Representative Gardner's amendment seems to adopt that common sense approach, and as long as it applies to all categories, it doesn't raise the protection concern."

[8:40:57 AM](#)

CHAIR SEATON asked what the impact of the amendments that raised the problems of equal protection would have on "the program."

[8:41:19 AM](#)

MR. POAG responded as follows:

Well, I suspect ... we would have an individual who would apply for a permanent fund dividend on one of these allowable absence categories. They'd be denied the dividend, and they would appeal, and they would allege that they're being treated disparately from a specific group - the military - and that they should also have been given the exemption that the military was given.

MR. POAG noted that military and students statistically have about the same rate of return; approximately 65 percent do not return. So, if a student were to challenge that in court by arguing the statistics, inevitably [the State of Alaska] would end up before the [Alaska] Supreme Court trying to justify why it treated one category differently than another. Mr. Poag said his concern was that the exemption for military seemed to be based on need; however, the provision for allowable absences is really designed to say that if a person is not physically present in Alaska during the qualifying year, that person's absence has to be consistent with his/her intent to return. He clarified, "Exempting a group based on their need to receive the PFD is inconsistent with the purpose of ensuring that they're permanent residents."

[8:42:55 AM](#)

CHAIR SEATON said he has heard that "those kind of cases" might result in other problems concerning the Internal Revenue Service (IRS) and taxability.

[8:43:09 AM](#)

MR. POAG said he hasn't heard any testimony regarding IRS qualifications or disqualifications.

[8:43:42 AM](#)

SHARON BARTON, Director, Permanent Fund Dividend Division, Department of Revenue, in response to a question from Representative Gruenberg regarding a survey the committee had requested on allowable absences, said she could offer some information verbally, but the job ended up being a bigger one than anticipated, thus the written report is still not "polished up." She said information was also requested regarding return trends. At end of ten years, the percentage of people who do not return to Alaska in the following categories was found to be: Secondary school, 67 percent; Caring for the terminally ill, 38 percent; merchant marines, 50 percent; settling an estate, 33 percent; and caring for a family member, 43 percent. In response to Representative Gruenberg, she said those are the primary categories. She said there is a congressional staff category, and the data shows that about 50 percent of them have not returned after 10 years. She added, however, that some of those people are still in office.

[8:46:25 AM](#)

REPRESENTATIVE GRUENBERG observed that the accompanying dependents, active military, secondary schools, and students, are "far and away higher than the other categories in not returning."

[8:47:32 AM](#)

MS. BARTON confirmed that's correct.

[8:47:38 AM](#)

REPRESENTATIVE GRUENBERG asked, "If we looked at those categories as presenting a much higher statistical rate of nonreturn and [treated] those differently from the other categories, would that be legally defensible?"

[8:48:14 AM](#)

MR. POAG said if the committee decides to treat allowable absences differently based upon statistics, then he strongly agrees with Representative Gruenberg's suggestion [at the previous hearing] to have legislative findings and purposes. However, if allowable absences will be treated equally across the board, there would be less of a need for those legislative purposes and findings. He continued:

The allowable absence categories go to the heart of whether or not the person applying for the permanent fund dividend is an Alaska resident. Alaska residency is physical presence with the intent to remain indefinitely. It also is, if you're not physically present, your intent to return and remain indefinitely. ... One of the objective areas we look at is: Is your absence consistent with your intent to return? Those 13 allowable absence categories that you all have adopted in this statutory section are a legislative finding that we believe ... their absence is consistent with their intent to return. ... You folks probably did that based on common sense approach and also looking at the need - the reason why they were gone. It almost seemed that it was beyond their control.

... We've now discovered, statistically, that a good portion of those folks aren't returning like we had probably presumed they were. However, you folks get

the ability to draw the line in the sand to say when it is that their rate of return is too low ... to say that it's palatable - that they are likely to remain Alaska residents. In other words, "Is their absence truly consistent with their intent to return?"

MR. POAG said he thinks that's a policy call. He said he thinks Representative Gruenberg is absolutely correct that a person's case will be better in front of whatever court if the statistical evidence is higher. He offered further details. He said, "You folks get to draw that conclusion as to what is the amount of rate of return that is palatable" He said the [Alaska] Supreme Court has said that the legislature has given [the Permanent Fund Dividend Division] broad discretion to decide who are permanent Alaska residents. He continued:

We've gotten great rulings from them, and if this body ... makes findings that 10 percent is just not acceptable, I think the supreme court would probably acknowledge that. However, clearly I feel on better ground standing before the supreme court if it's 60-70 percent of nonreturn rates.

[8:51:52 AM](#)

REPRESENTATIVE GATTO offered an example of two people leaving for school, one born in Alaska and the other a two-year resident, and he asked if the rate of return is different.

MR. POAG said he doesn't know the statistical answer to that; however, based on statute, both those people are considered Alaska residents and have to be treated the same.

[8:52:59 AM](#)

MS. BARTON confirmed that that information had not been broken down in that manner.

[8:53:22 AM](#)

REPRESENTATIVE GARDNER said she would like to know how the probability of return changes for each class after two years.

[8:53:33 AM](#)

MS. BARTON said currently the trend looks like most people from the military and "accompanying groups" don't come back after the

first year, and by five years most have dropped off the radar screen. She said it is a little bit different with students. More students that leave for one to two years tend to come back to the state than not. Once the students stay Outside for three or more years, most of them don't come back. The other groups are so small, Ms. Barton said, that making generalities about them is difficult. Notwithstanding that, she said, "They too appear that if they don't come back in the first year or two, they don't come back."

[8:54:54 AM](#)

REPRESENTATIVE GRUENBERG expressed his appreciation of the answers from the witnesses. Regarding Representative Gatto's previously stated question regarding whether a person who is born here is treated differently than a person who has come to the state for only a few years, he suggested that that sort of analysis may run afoul of a certain supreme court decision.

[8:55:39 AM](#)

MR. POAG responded:

We'd be on thin ice. ... It depends on how that legislation was crafted and it would depend on what the statistical evidence showed. If we're ... creating allowable absence categories because we've discovered that certain folks who are absent are more likely to return than other folks, I think maybe we would be okay; but if we attempt in any way, shape, or form to ... create classes of permanent Alaska residents, we're definitely in trouble. We cannot do that. Once you meet the standard of the PFD eligibility, you have to be treated just as everybody else, whether you need the PFD, whether you don't need the PFD, whether you came here two years ago, or whether you've been here for 25 years. You're an Alaska resident for purpose of the PFD and you get it. However, ... if we are talking about categories of folks who we have evidence to show that they're more likely to return than other categories, that's the heart and spirit of what the allowable absence and exceptions are. They're bright line rules that make it administratively practical for Director Barton's division to say, "These 12 categories get to be absent because we've decided they're likely to return; the rest of you can only be absent for up to 180 days, and

you're absence also needs to be consistent with your intent to return. So, I think those bright line rules are allowable, but I think there would have to be pretty strong statistical evidence to treat different categories of Alaska residents differently. And ... I think there would have to be a lot more on the record than there is today.

[8:57:27 AM](#)

REPRESENTATIVE GRUENBERG said it would be dangerous not to treat the statistically similar categories the same.

[8:58:52 AM](#)

MR. POAG emphasized his agreement. He said, "If we have statistical evidence that these five categories are not likely to return and statistical evidence that these three categories are likely to return, we should follow that statistical evidence and treat them accordingly."

[8:58:59 AM](#)

REPRESENTATIVE GRUENBERG noted that the committee had not received the statistics regarding secondary education students.

[8:59:21 AM](#)

MS. BARTON mentioned other data she has begun to compile.

[9:01:20 AM](#)

CHAIR SEATON, in response to the discussion about data, said, "The whole purpose of this discussion is to make sure we treat everybody equally." He indicated that [focusing on the data could result in] the committee getting far off its objective of ensuring that "the permanent fund reflects Alaska residency." He stated:

We have to remember that under this program, as proposed in the bill, everyone has the opportunity to qualify for allowable absences and everyone has the opportunity to return. And that these are choices that those people make not to return to Alaska, in every category. And so, people can simply qualify for their allowable absence permanent fund dividend by doing exactly what they're certifying, and that is

[by] returning to Alaska at the end of that allowable absence. And so, personally, as the chairman, I'm not going to support it, and I hope the rest of the committee doesn't get into trying to parse difference between people on allowable absences

[9:03:27 AM](#)

REPRESENTATIVE WEYHRAUCH said he appreciates Chair Seaton's comments. He remarked that the bill is based upon an idea that Chair Seaton articulated last year.

[9:03:55 AM](#)

REPRESENTATIVE GRUENBERG commented that he put his name on the bill because he was concerned that lots of people were abusing the system.

[9:04:20 AM](#)

REPRESENTATIVE GATTO noted that some college students have to go Outside because a line of study is not offered in Alaska. He said students may make financial and career decisions based on an assumption that was in place at the time of the decision. He stated his concern that those students could come back and sue the state because the parameters were changed mid course. He asked if that could be a legitimate argument.

[9:05:46 AM](#)

MR. POAG said they could make the claim, but his response would be that the PFD is a statutory devise and not a vested property right; a person only gets one if he/she qualifies on an annual basis. He said the supreme court has said this, as well. He noted that any changes effected to the PFD today would be for next year's PFD and would not affect "the PFD they're applying for now."

[9:06:31 AM](#)

REPRESENTATIVE WEYHRAUCH said students could choose to drop their Alaska residency and become a resident of the state in which they attend school and, doing so, would receive instate tuition, which he said is of far greater value than the PFD.

[9:07:17 AM](#)

MR. POAG told Representative Gatto that those students who may be counting on receiving a PFD would get one, they would just get it when they returned to the state.

9:07:22 AM

CHAIR SEATON reminded Representative Gatto that the students on allowable absences would get their PFD for the first two years, after which time it would be held.

9:07:31 AM

REPRESENTATIVE GATTO said he was thinking about the Longevity Bonus [which Alaska seniors received until the program was ended]. He indicated that [the seniors] had an expectation in that case, and asked, "Has that ever been challenged and defeated, or has it simply never been challenge?"

9:07:35 AM

MR. POAG said he has never participated in "giving legal advise to the Longevity Bonus fund" and is not familiar with that program.

REPRESENTATIVE WEYHRAUCH proffered, "The case, as I understand it, was dismissed as summary judgment grounds as legislative policy and has not appealed to the supreme court"

9:08:58 AM

MR. POAG, in response to a suggestion from Representative Gruenberg, said currently a person is only allowed to qualify for allowable absences for 10 years. He said the legislature needs to make a policy decision based on the statistical evidence that it is acceptable for those on an allowable absence to be gone "with 10, or 20, or 30 percent rates of return." He said, "I don't know if it's any more defensible." He continued:

I guess if I had to choose one of the two options for defense purposes, I would think a three-, or a five-, or six-year ... cut-off would be easier to defend than a series of categories and exceptions, because groups are always going to say, "Well, what about me, how come there's not a category for me?" And then one category may say, "Well, why are they getting treated this way and I'm not getting treated this way?"

REPRESENTATIVE GRUENBERG noted that the legislature constantly sees people requesting to add new categories to allowable absences. He concluded that if the cut-off time were changed to five years, "that would be defensible," easier for the Permanent Fund Dividend Division to manage, and would probably result in less lawsuits in the long run.

[9:10:48 AM](#)

CHAIR SEATON, in response to Representative Gruenberg and comments from Mr. Poag, said the latter was discussing current statute.

[9:11:11 AM](#)

MR. POAG, in response to a request from Representative Gruenberg for overall clarification, said current statute provides that a person may get an allowable absence for up to 10 years, no more. The bill would broaden that language and allow someone an allowable absence for up to 10 years, after which the person's eligibility would be conditioned upon his/her return. He stated that Version G, assuming it "has Representative Gardner's provision in it," would provide that allowable absence categories get the PFD for the first two years, after which their eligibility is conditioned upon their return and their being present in the state without an allowable absence necessary. At that point, he said, those people would be eligible for the PFDs that had been held back.

[9:12:53 AM](#)

CHAIR SEATON reopened public testimony only for those who had not had a chance to testify already.

[9:12:58 AM](#)

MARY LOU KELSEY testified on behalf of herself in opposition to HB 273. She stated that students are Alaska residents, even while studying Outside; they live and work in Alaska when out of school and pay out of state tuition. She asked the committee not to penalize these students by denying and delaying their PFDs, which are greatly needed for current college costs. By delaying payment of the PFD, she opined, the legislature is punishing those Alaska residents just because they are students. She said it is a hardship on families. She asked the committee to give these students equal protection and not terminate their constitutional rights based on arbitrary guesses about their

intent to return, but rather to pursue those who are really committing fraud concerning the PFD.

[9:14:29 AM](#)

TRACIE L. BROWN, testifying on behalf of herself, said her son is currently a college student paying out-of-state tuition. She concurred with the previous testimony of Ms. Kelsey. She said she feels that "this bill arose from the insinuation of fraud," which she said is insulting. She said her son spends the summer session at home, working in Alaska. She indicated that asking students to commit to living in Alaska is a double standard. She explained by asking, out of the entire population of Alaskans living in state who are receiving their PFDs, how many would still be residents in 10 years.

[9:16:54 AM](#)

REPRESENTATIVE RAMRAS told Ms. Brown that he is sensitive to her situation, but asked her to answer the following question:

If this legislation were enacted and your son's permanent fund [dividend] was held until he returned to Alaska, what would his life be like four years from now if, when he came home from college, he was the beneficiary of the four permanent funds ...? Wouldn't that ... be of some value unto itself that he would have a nest egg?

[AN UNIDENTIFIED PERSON uttered a remark that was heard via the Legislative Information Office (LIO) teleconference system, but was not intended for public record.]

[9:18:12 AM](#)

MS. BROWN, after emphasizing that the remark of the unidentified speaker was not her own response, stated that what Representative Ramras said seems valid - it seems like it would be a positive thing for her son to get a chunk of money upon his return. However, she stressed her son's need is to receive the money now.

[9:19:02 AM](#)

REPRESENTATIVE RAMRAS clarified that his question is not about what is lost by surrendering the permanent fund [dividend] each year. He said he wants to know "what benefit would be derived

from college students or military whose permanent [fund dividends] are held until they do return." He said it wouldn't be money lost forever, but rather money held until their return to Alaska.

9:19:39 AM

MS. BROWN said it would be the same as if her own PFD had been held and she was given a lump sum every four years, rather than receiving the PFD every year. She stated, "There's no time in our life that our money is more valuable to us than those college days." She asked Representative Ramras if that answered his question.

9:20:20 AM

REPRESENTATIVE RAMRAS replied, "No, it did not, but I thank you anyway."

9:21:17 AM

MIKE MILLIGAN, testifying on behalf of himself, said the PFD was never meant to be an entitlement, but rather a way to keep Alaska's money in the hands of Alaskans versus in the hands of government. He said the children [of the previous testifiers] are not being punished if they don't get their PFD checks, "they would be punished if they ... [had] to pay a fee." He revealed that he is the parent of three students in Alaska - two in state and one out of state. The one who is going to school Outside is in her second year of [doctoral] school and "she doesn't claim a residency."

MR. MILLIGAN focused on who is being punished. He stated, "There's no group of Alaskans more punished under current tax code and our PFD-awarding scenario than people who own property in Alaska and pay tax on that property. He said Alaskans have not been asked to be citizens of the state by paying an income tax. He mentioned a bill by former House Representative Jeannette James, which proposed a property tax exemption from state income tax and "hobbled that to a PFD application." He questioned how many people would be willing to "drop \$100 during the PFD application in order to get \$700 or \$900 in the fall."

MR. MILLIGAN stated that he thinks HB 273 is a courageous proposal. He recalled hearing that approximately 17,000 people "get a check Outside." He indicated that the bill has a positive benefit of educating the public. He said he thinks

it's time to ask who is being rewarded on the state's tax policy and whom the state wants to reward. He predicted everyone would want to sign up for a private account to be managed by the government. He added, "Everybody would sign up for that, and they could still leave after a certain amount of time." He concluded, "I applaud the debate, but I think it's time to look at possibly [an] absolute small half a percent of your federal income tax ... hobble that to a PFD application."

[9:25:19 AM](#)

CHAIR SEATON closed public testimony.

[9:25:41 AM](#)

REPRESENTATIVE GATTO regarding Representative Ramras' previous question about receiving a nest egg, said:

I think the correct answer to that is: if a person is Outside on an allowable absence in a school and does not receive their permanent fund dividend, they've simply raised their debt on their Outside costs. I don't believe that the people who are attending school Outside, by and large, have all the money they need to do that. I think they engage in debt. The nest egg that would be here would simply not be a nest egg as much as it would be a way to pay off the debt. But it would also be interest-free, while the debt would have ... interest. So, in the end, I believe the woman who was testifying is indicating there is a net loss to a student doing that.

[9:26:38 AM](#)

REPRESENTATIVE RAMRAS interpreted that a lot of the testimony that has been heard on HB 273 suggests that "once you lose your permanent fund [dividend] it goes away forever." He said it's not a net loss bill. When a student comes back to Alaska, he said, he/she is made "almost whole." He said [Ms. Barton] manages a small group of people that work hard and many of the questions being asked are difficult to answer. He provided an analogy of going through security at an airport even if a person is not a terrorist, and he explained that he is an advocate of setting standards. He noted that 55 percent of the people in his district are in the military, thus he has a hypersensitivity to those in the military. He also noted that he was a student who would have been hurt had he not been able collect a PFD;

however, he reemphasized the importance of setting a standard. Representative Ramras concluded by stating his support of HB 273.

[9:28:37 AM](#)

REPRESENTATIVE LYNN asked what would stop someone from coming back to get their money and then turning around and leaving the state again.

[9:28:57 AM](#)

CHAIR SEATON explained that the purpose of the bill is to ensure that people do exactly what they say they will do, which is to come back and establish their residency. To do so, he said, they would have to reside in the state for 185 days in a year. After that, there is nothing to stop those people from leaving; however, he expressed the hope that after coming back and reestablishing themselves, people would decide to stay.

[9:31:02 AM](#)

REPRESENTATIVE LYNN moved to adopt Amendment 1, labeled 24-LS0871\F.2, Cook, 1/23/06. He said it is basically an amendment to protect the military. Amendment 1 read as follows:

Page 4, line 6, following "AS 43.23.008(a)(1) - (8) or (10) - (13).":

Insert "This subsection does not apply to the payment of a current year dividend to an individual claiming an allowable absence under AS 43.23.008(a)(3) if, for a period during the qualifying year, the individual

(1) was serving as a member of the armed forces of the United States on active duty

(A) at a location outside of the United States and outside of North, South, and Central America;

(B) considered to be a remote tour of duty by the armed forces of the United States; or

(C) at a location outside of the state, has a spouse or minor or disabled dependent, and the spouse and each minor or disabled dependent is eligible for the current year dividend without claiming an allowable absence under AS 43.23.008; or

(2) received care in a hospital outside the state while

(A) serving on active duty as a member of the armed forces of the United States; or
(B) a spouse or minor or disabled dependent of an individual serving on active duty as a member of the armed forces of the United States who is eligible for a current year dividend."

[9:31:46 AM](#)

CHAIR SEATON noted that the committee did not yet have a copy of Amendment 1.

[9:32:01 AM](#)

REPRESENTATIVE LYNN, at the request of Chair Seaton, withdrew his motion to adopt Amendment 1 until the committee received a copy.

The committee took an at-ease from [9:32:14 AM](#) to [9:36:06 AM](#).

[9:36:09 AM](#)

REPRESENTATIVE LYNN repeated his motion to adopt Amendment 1 [text provided previously].

[9:37:19 AM](#)

CHAIR SEATON stated his understanding that Version F was already before the committee as a work draft.

[9:37:35 AM](#)

REPRESENTATIVE LYNN stated that Amendment 1 would protect the military, which, he added, protects "us." He offered further details.

[9:38:10 AM](#)

CHAIR SEATON objected. He said [Amendment 1] would violate the state's constitutional due process and equal protection.

[9:38:36 AM](#)

A roll call vote was taken. Representative Lynn voted in favor of Amendment 1. Representatives Gatto, Elkins, Ramras, Gruenberg, and Seaton voted against it. Therefore, Amendment 1 failed by a vote of 1-5.

[9:39:26 AM](#)

REPRESENTATIVE ELKINS moved to report CSHB 273, Version 24-LS0871\F, Cook, 1/18/06, out of committee with individual recommendations and a zero fiscal note.

[9:40:16 AM](#)

REPRESENTATIVE LYNN objected. He emphasized that he thinks the intent of bill is good, but he wants to make it better. He stated that the bill brings blatant discrimination against military and students. He said the bill holds the PFD hostage and is bad public policy. He suggested the appropriate policy for getting people to return to the state is to provide better educational and job opportunities, and to go after fraudulent claims. He stated his understanding that Alaska has the highest percent of military retirees and veterans of almost any other state in the union. He stated his opposition of the bill.

[9:42:01 AM](#)

REPRESENTATIVE LYNN, in response to a comment from Representative Gatto, explained that although there is no reference to students in the failed Amendment 1, he had added a reference to students in his comments.

[9:42:15 AM](#)

REPRESENTATIVE GATTO recalled that Mr. Poag had testified that sub-groups cannot be made without jeopardizing the entire bill. He stated, "While I certainly support the military saving their dividend - and the students, and allowable absences for all reasons, I think it's unfair to jeopardize the bill with the information that we have before us. And I'll be voting in favor of it."

[9:42:48 AM](#)

REPRESENTATIVE ELKINS concurred with Representative Gatto's comments and said he would support the bill "for the same reasons."

[9:43:04 AM](#)

CHAIR SEATON expressed his appreciation to the Permanent Fund Dividend Division for its work in pulling together the

information requested by the committee. He summarized that \$154 million has been paid out in PFDs to people who left the state and did not return "to the qualifications." That money would have gone into the PFDs of true Alaska residents; none of the money would go to financing state government.

[9:43:55 AM](#)

REPRESENTATIVE GRUENBERG said he would like Ms. Barton to continue her investigation and make her findings available to the committee.

[9:44:11 AM](#)

CHAIR SEATON said he has asked Ms. Barton to finish the requested work so that it could be reported to the committee and "follow the bill."

[9:44:27 AM](#)

REPRESENTATIVE GRUENBERG said he is conflicted on the bill, even though he is a co-sponsor of it. He said his mind is "still open on the subject," and he reiterated that he wants to see Ms. Barton's future findings.

[9:44:44 AM](#)

A roll call vote was taken. Representatives Elkins, Ramras, Gardner, Gruenberg, Gatto, and Seaton voted in favor of reporting CSHB 273, Version 24-LS0871\F, Cook, 1/18/06, out of committee with individual recommendations and a zero fiscal note. Representative Lynn voted against it. Therefore, CSHB 273(STA) was reported out of the House State Affairs Standing Committee by a vote of 6-1.

CONFIRMATION HEARING(S):
Commissioner, Department of Administration

[9:45:44 AM](#)

CHAIR SEATON again brought before the committee the appointment of Scott J. Nordstrand to the position of Commissioner of the Department of Administration. [The confirmation hearing was initiated on 1/24/06.]

REPRESENTATIVE GATTO moved to advance the name of Scott J. Nordstrand to the joint session of the House and Senate; he

requested unanimous consent. There being no objection, the nomination of Scott J. Nordstrand as Commissioner of the Department of Administration was advanced.

Lieutenant Governor Designee

[9:46:03 AM](#)

CHAIR SEATON again brought before the committee the appointment of William A. Corbus to the position of Lieutenant Governor Designee. [The confirmation hearing was initiated on 1/24/06.]

REPRESENTATIVE GATTO moved to advance the confirmation of William A. Corbus to the joint session of the House and Senate; he requested unanimous consent. There being no objection, the nomination of William A. Corbus to the position of Lieutenant Governor Designee was advanced.

Alaska Public Offices Commission (APOC)

[9:46:16 AM](#)

CHAIR SEATON again brought before the committee the appointment of William Walters to the Alaska Public Offices Commission (APOC). [The confirmation hearing was initiated on 1/24/06.]

REPRESENTATIVE GATTO moved to advance the confirmation of William Walters to the joint session of the House and Senate; he requested unanimous consent. There being no objection, the nomination of William Walters to the Alaska Public Offices Commission was advanced.

HB 278-RETIREMENT SYSTEM BONDS

[9:46:46 AM](#)

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 278, "An Act relating to the Alaska Municipal Bond Bank Authority; permitting the Alaska Municipal Bond Bank Authority or a subsidiary of the authority to assist state and municipal governmental employers by issuing bonds and other commercial paper to enable the governmental employers to prepay all or a portion of the governmental employers' shares of the unfunded accrued actuarial liabilities of retirement systems and authorizing governmental employers to contract with and to issue bonds, notes, or commercial paper to the authority or its

subsidiary corporation for that purpose; and providing for an effective date."

CHAIR SEATON noted that included in the committee packet is a memorandum from Tamara Cook, Director, Legal Services, dated 1/6/06, and he asked the sponsor of the bill to address it.

[9:46:58 AM](#)

REPRESENTATIVE MIKE HAWKER, Alaska State Legislature, as sponsor of HB 278, stated that the memorandum is a response to a question from Representative Weyhrauch regarding whether state law prevents municipalities from issuing pension bonds. Representative Hawker interpreted Ms. Cook's response to mean that there are prohibitions in the constitution; however, other structures exist that may very well meet constitutional muster. He said he suspects Ms. Cook's answer was generic because she did not have any specific proposal before her to evaluate. Furthermore, the bill does not contemplate any specific structure.

[9:49:33 AM](#)

REPRESENTATIVE HAWKER said that based on the concerns of the House State Affairs Standing Committee and a request made by Chair Seaton, he did some research and developed an amendment to ensure that smaller municipalities could band together and not be excluded. He said he learned from Legislative Legal and Research Services that AS 29.35.010(13) authorizes municipalities to enter into cooperative agreements. Section 13 read as follows:

(13) to enter into an agreement, including an agreement for cooperative or joint administration of any function or power with a municipality, the state, or the United States;

REPRESENTATIVE HAWKER encouraged the committee to reach the conclusion that he has reached: an amendment is not necessary, as the power exists in current statute [to allow municipalities to enter into cooperative agreements for pension obligation bonds (POBs)].

[9:51:29 AM](#)

REPRESENTATIVE GRUENBERG, referring back to the previously mentioned legal memorandum, said by "reading between the lines"

he believes Ms. Cook is saying that municipalities cannot issue general obligation bonds, but could issue moral obligation bonds. He asked Representative Hawker if that is his interpretation.

[9:52:13 AM](#)

REPRESENTATIVE HAWKER responded as follows:

If you were [implying] a specific limitation to moral obligation debt, I don't believe that's a correct statement. I believe there would be a variety of debt vehicles to which she would be inferring in this

REPRESENTATIVE HAWKER said he is hesitant to provide testimony regarding the intent of someone else's work product. His interpretation, he said, is that there are constitutional prohibitions against specific forms of debt, but there are other forms of debt available that would be constitutional and have been proven already with precedent established in the Alaska Court System.

[9:53:03 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that general obligation (GO) bonds are specifically prohibited.

[9:53:15 AM](#)

REPRESENTATIVE HAWKER concurred that "general obligation bonding by the State of Alaska would be inappropriate and unacceptable."

[9:53:40 AM](#)

REPRESENTATIVE GRUENBERG added, "Or a political subdivision."

[9:53:50 AM](#)

REPRESENTATIVE HAWKER answered yes.

[9:53:55 AM](#)

CHAIR SEATON cited a sentence in the memorandum at the end of paragraph 3, which read:

Other exceptions to the restraint on borrowing are found in Art. IX, sec. 11, but it is not obvious to me

how these exceptions might be used to fund pension plans.

CHAIR SEATON advised the committee that that remark by Ms. Cook raises some flags, and he said he thinks it might be necessary to get further [legal] clarification as the bill moves along through the process.

CHAIR SEATON directed attention to page 7, line 24, of the bill, which [with the preceding lines 21-23] read:

(a) Subject to AS 44.85.100(b), the bond bank authority may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this chapter, including
(1) the purchase of municipal bonds

CHAIR SEATON said he thought the Alaska Municipal Bond Bank Authority ("Bond Bank") issued bonds. He asked for clarification.

[9:55:37 AM](#)

REPRESENTATIVE HAWKER explained that that language, which is in Section 5 of the bill, is not new statute and amends the language on page 8, lines 5-7, which read as follows:

(5) assisting governmental employers to prepay all or a portion of their share of the unfunded accrued actuarial liabilities of retirement systems, with security as the bond bank authority considers reasonable.

[9:56:09 AM](#)

CHAIR SEATON directed attention to page 8, subsection (c), the original language of which shows a bonding authority of \$500,000,000. He interpreted the new language in the subsection to mean "there's no limit at all." The new language read as follows:

This subsection does not apply to (1) bonds or notes issued to fund or refund bonds or notes; (2) bonds, notes, commercial paper, and other obligations issued under AS 44.85.086 or 44.85.180(a)(5).

[9:56:33 AM](#)

REPRESENTATIVE HAWKER indicated that there are no limits in regard to refunding or obligations issued under the statutes previously noted in subsection (c). In regard to aggregating pension liabilities, he said, "The best execution would be if municipalities chose to come together and place larger securities on the market and get a much more efficient execution with a ... greater ultimate savings to the issuer."

[9:57:20 AM](#)

CHAIR SEATON recalled that the Department of Revenue testified to the committee that the moral bonding authority was "somewhat south of \$6 billion." He said, "So, maybe as this goes into [the House Finance Committee] you can see whether we want this unlimited amount, which could be more than the moral bonding authority of the state."

[9:57:49 AM](#)

REPRESENTATIVE HAWKER stated for the record that he is committed to getting a thorough review and analysis by the Department of Law, the Department of Revenue, the Bond Bank, and outside bond counsel and authorities to ensure that the financial management aspect of the bill will be strongly addressed.

[9:58:51 AM](#)

CHAIR SEATON referred to a sentence in Ms. Cook's memorandum, which read:

Art. IX, sec. 9 states in full: "No debt shall be contracted by any political subdivision of the State, unless authorized for capital improvements by its governing body and ratified by a majority vote of those qualified to vote and voting on the question."

CHAIR SEATON indicated that he does not see that issue addressed anywhere in the bill "one way or the other." He stated the need to find out if that requirement is in place or exempted.

[9:59:43 AM](#)

REPRESENTATIVE GRUENBERG said he doesn't see any legal requirement "that this be approved by a vote of the people." He mentioned an amendment could be offered "to do that" and asked Representative Hawker if he would object.

[10:00:13 AM](#)

REPRESENTATIVE HAWKER reiterated his sincere belief that the existing statutory regulatory structure, as it applies to municipalities and the authorities the state vests in those municipalities, is adequate and provides appropriate public protections. He continued:

Certainly we've discussed the possibility of a broader authority being extended, specifically for this type of transaction, through a constitutional amendment process to a general obligation bond. ... I believe the subject and the question you're broaching would be best discussed in that context rather than in this context, which is where we are definitely not making any changes in our current constitutional authorities.

[10:01:27 AM](#)

REPRESENTATIVE GRUENBERG said he is looking into the drafting of a constitutional amendment. He said he was concentrating on amending the article dealing with state contraction of debt and he had not looked as much at the constitutional provisions regarding the local contracting of debt. He mentioned the concept of putting both those issues together in the same amendment.

[10:02:12 AM](#)

CHAIR SEATON suggested that, in the interest of time, the issue be brought up at another time. He stated his concern regarding hard debt versus soft debt in relation to pension bonds. He said the committee was been told that the hard debt is a debt obligation. He said, "I don't want this to end up in court later as to whether it should be a vote or not." He stated his desire to get a full legal opinion as to whether pension bonds would be exempt from the requirement of a vote of the people.

[10:03:36 AM](#)

REPRESENTATIVE GRUENBERG moved to report HB 278 out of committee with individual recommendations and the attached fiscal note.

[10:03:56 AM](#)

REPRESENTATIVE HAWKER noted that he had not received a copy of the fiscal note.

[10:04:26 AM](#)

CHAIR SEATON asked if there was any objection. There being none, HB 278 moved out of the House State Affairs Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:05:06 AM](#).