

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

April 6, 2006

8:07 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. 438

"An Act relating to initiative, referendum, and recall petitions; and providing for an effective date."

- HEARD AND HELD

SENATE BILL NO. 250

"An Act extending the termination date of the Council on Domestic Violence and Sexual Assault; and eliminating statutory references to the network on domestic violence and sexual assault."

- HEARD AND HELD

HOUSE BILL NO. 476

"An Act relating to the use of electronically generated ballots."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 438

SHORT TITLE: INITIATIVE, REFERENDUM, RECALL PETITIONS

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

02/08/06 (H) READ THE FIRST TIME - REFERRALS  
02/08/06 (H) STA, JUD, FIN  
03/09/06 (H) STA AT 8:00 AM CAPITOL 106  
03/09/06 (H) -- Meeting Canceled --  
03/14/06 (H) STA AT 8:00 AM CAPITOL 106  
03/14/06 (H) Heard & Held  
03/14/06 (H) MINUTE(STA)  
03/16/06 (H) STA AT 8:00 AM CAPITOL 106  
03/16/06 (H) Heard & Held  
03/16/06 (H) MINUTE(STA)  
04/04/06 (H) STA AT 8:00 AM CAPITOL 106  
04/04/06 (H) Scheduled But Not Heard  
04/06/06 (H) STA AT 8:00 AM CAPITOL 106

BILL: SB 250

SHORT TITLE: DOMESTIC VIOLENCE/SEXUAL ASSAULT COUNCIL  
SPONSOR(s): RULES BY REQUEST OF LEG BUDGET & AUDIT

01/26/06 (S) READ THE FIRST TIME - REFERRALS  
01/26/06 (S) HES, FIN  
02/17/06 (S) HES AT 1:30 PM BUTROVICH 205  
02/17/06 (S) Heard & Held  
02/17/06 (S) MINUTE(HES)  
02/22/06 (S) HES AT 1:30 PM BUTROVICH 205  
02/22/06 (S) Heard & Held  
02/22/06 (S) MINUTE(HES)  
03/01/06 (S) HES WAIVED PUBLIC HEARING NOTICE, RULE  
23  
03/03/06 (S) HES AT 2:00 PM BUTROVICH 205  
03/03/06 (S) Moved SB 250 Out of Committee  
03/03/06 (S) MINUTE(HES)  
03/06/06 (S) HES RPT 1DP 2NR 2AM  
03/06/06 (S) DP: DYSON  
03/06/06 (S) NR: WILKEN, GREEN  
03/06/06 (S) AM: ELTON, OLSON  
03/14/06 (S) FIN AT 9:00 AM SENATE FINANCE 532  
03/14/06 (S) Moved SB 250 Out of Committee  
03/14/06 (S) MINUTE(FIN)  
03/15/06 (S) FIN RPT 3DP 3NR  
03/15/06 (S) DP: WILKEN, GREEN, BUNDE  
03/15/06 (S) NR: HOFFMAN, OLSON, STEDMAN  
03/27/06 (S) TRANSMITTED TO (H)  
03/27/06 (S) VERSION: SB 250  
03/28/06 (H) READ THE FIRST TIME - REFERRALS  
03/28/06 (H) STA, FIN  
04/06/06 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

DEE HUBBARD

Sterling, Alaska

POSITION STATEMENT: Testified on behalf of herself during the hearing on HB 438.

MYRL THOMPSON

Susitna Valley

POSITION STATEMENT: Testified on behalf of himself during the hearing on HB 438.

JANE PIERSON, Staff

to Representative Jay Ramras

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Representative Ramras, sponsor of HB 438.

ANNETTE KREITZER, Chief of Staff

Office of the Lieutenant Governor

Juneau, Alaska

POSITION STATEMENT: Offered suggestions and answered questions during the hearing on HB 438.

BROOKE MILES, Executive Director

Alaska Public Offices Commission (APOC)

Anchorage, Alaska

POSITION STATEMENT: Responded to questions during the hearing on HB 438.

W. TOM MAHER, Staff

to the Legislative Budget & Audit Committee

Alaska State Legislature

POSITION STATEMENT: Presented SB 250 on behalf of the Senate Rules Committee, sponsor by request of the Legislative Budget & Audit Committee.

PAT DAVIDSON, Legislative Auditor

Legislative Audit Division

Legislative Agencies & Offices

Juneau, Alaska

POSITION STATEMENT: Offered information during the hearing on SB 250.

**ACTION NARRATIVE**

**CHAIR PAUL SEATON** called the House State Affairs Standing Committee meeting to order at 8:07:55 AM. Representatives Gatto, Elkins, Lynn, Ramras, Gardner, and Seaton were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

HB 438-INITIATIVE, REFERENDUM, RECALL PETITIONS

8:08:56 AM

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 438, "An Act relating to initiative, referendum, and recall petitions; and providing for an effective date."

CHAIR SEATON [reopened] public testimony.

8:10:08 AM

REPRESENTATIVE GATTO moved to adopt the proposed committee substitute (CS), Version 24-LS1344\R, Kurtz, 4/3/06, as a work draft. There being no objection, Version R was before the committee.

8:11:00 AM

DEE HUBBARD, testifying on behalf of herself, stated that there are parts of the bill that are acceptable and parts she finds offensive. She offered her understanding that presently the Alaska Public Offices Commission (APOC) does not become involved with the initiative, referendum, or recall process until after the document has been certified for the ballot. She said Section 1 would require APOC to get involved immediately, once someone has turned in a document. She questioned why APOC should be required to get involved, when the Division of Elections is already involved up until the time that the document is certified for the ballot. She stated that she does not want APOC to be used as police.

8:12:06 AM

MS. HUBBARD directed attention to page 2, line 27, which states that in order for a person to qualify to circulate a petition booklet, he/she "shall be":

(4) not registered to vote in any other state.

MS. HUBBARD questioned why that language exists. She said the same stipulation also appears on page 4, line 28, [relating to the requirement for an affidavit].

MS. HUBBARD directed attention to the phrase "100 miles", shown within the language on page 3, [lines 3-5], which read as follows:

for each day that the circulator travels more than 100 miles from the circulator's home in the course of circulating the petition

MS. HUBBARD said she would like it clarified whether that means 100 miles one way or round trip.

[8:13:26 AM](#)

CHAIR SEATON asked that Ms. Hubbard list all her questions and concerns without waiting for a response. He said the committee would address those issues during committee discussion.

[8:13:37 AM](#)

MS. HUBBARD brought focus to page 3, line 18, which would make a circulator who violates Section 2, subsections (b) or (c), guilty of a misdemeanor. Ms. Hubbard stressed her opposition to that. She stated, "I think that's going to cool off a lot of people from even thinking about wanting to do an initiative, referendum, or recall. She indicated that legislators pay civil fines, but don't face jail, thus, why would a resident who is "trying to do something that they believe is good" face jail? She added, "And it may not be through any fault of their own."

MS. HUBBARD turned to page 6, lines 11-13, which read as follows:

**(5) a certification by each member of the recall committee, under penalty of perjury, that the facts alleged in the application are true to the best of the member's knowledge.**

MS. HUBBARD said, "Here's another case of me being thrown in jail because I believe facts that I think are true, and I do a recall, and now someone comes and tries to intimidate me to get me charged with perjury." She asked, "Why are we doing this to each other. We've had, what, one recall in this state, and now

all of a sudden we're going to be facing jail for perjury? I just don't like that at all."

MS. HUBBARD complimented the bill sponsor for including the definitions of "corruption", "incompetence", "lack of fitness", and "neglect of duties" on page 6, lines 14-25. She suggested rephrasing the definition of "corruption" by adding the following language, on page 6, line 17, after "AS 15.45.470":

that is either misuse of public office for private gain or abuse of public power for personal gain

MS. HUBBARD stated that she would like Section 3 removed from the bill and to have the duties described in Section 1 be given to the Division of Elections [rather than APOC].

[8:17:44 AM](#)

MS. HUBBARD concluded, "We've already had our powers of ... initiative and referendum somewhat taken away from us by a vote of the people. Why do we have to go through more problems?"

[8:18:40 AM](#)

MS. HUBBARD, in response to a question from Representative Ramras, said she has never served as a signature collector.

REPRESENTATIVE RAMRAS asked, "Is it fair to say, then, you're not familiar with the amount of cheating and the violation of the law that already goes on with collectors?"

[8:19:01 AM](#)

MS. HUBBARD replied that Representative Ramras' statement is broad. She said, "I've signed petitions, and I haven't noticed anything going on when I have signed a petition. So, I don't know."

[8:19:45 AM](#)

MYRL THOMPSON, testifying on behalf of himself, directed attention to a letter in the committee packet, [dated 3/17/06], from David W. Marquez, Attorney General, Department of Law, explaining that the reason he did not address the issue of recalls is because the sponsor had - during the last hearing on HB 438 - stated his intent to remove the portions of the bill related to recall. Mr. Thompson observed that Version R still

contains language about recalls, in Sections 3 and 4 - [Section 4] addressing the more contentious issue of definitions [of "corruption", "incompetence", "lack of fitness", and "neglect of duties"].

MR. THOMPSON said he was in the Alaska Superior Court the day the summary judgment was made on the issue of [the definitions]. He explained that then Representative Scott Ogan had challenged "these four reasons for recall," saying they needed to be more specific, with better definitions. The court ruled that [the definitions] were fine the way they were. He continued:

... The reason for that was if a citizen can go on his own judgment for the election of a public official to office, ... his judgment on the definitions [is] just as good to remove that official from office. ... It has never happened; actually only one has made it to the ballot.

So, by not having that case law or even that question answered by the Department of Law, I think it is doing the people of Alaska a great injustice when it comes to the definitions that are under Section 4 of this bill.

Also argued in court and upheld was the fact that if you ... set the hurdle too high by adding definitions that make it just too difficult for the average citizen to recall a ... [legislator], than that is going against the spirit of the law to begin with and the constitutional right to recall a person from office.

[8:22:24 AM](#)

MR. THOMPSON suggested bringing in the summary judgment for the bill record or, ultimately, to strike Sections 3 and 4 from HB 438. Mr. Thompson concurred with Ms. Hubbard's testimony that penalizing citizens of the state connected to initiatives, recalls, and referendums is "damping the public spirit," and he suggested that is "the exact wrong way to go when it comes to this type of stuff."

[8:23:33 AM](#)

REPRESENTATIVE GATTO questioned how striking the definitions in Section 4 would effect any frivolous complaints that may be made.

[8:23:52 AM](#)

MR. THOMPSON clarified that he is asking that the definitions that are proposed in the bill be stricken. He stated, "The four reasons for recall have been state law since about 1960," and there has been only 1 recall effort that made it to the ballot in 48 years, and "it wasn't frivolous."

[8:25:51 AM](#)

REPRESENTATIVE GATTO touched on the issue of deciding how to weigh the value of a complaint.

[8:26:13 AM](#)

MR. THOMPSON assured Representative Gatto that frivolous cases "will be picked out of the system." He described the complicated and lengthy process of conducting a recall.

[8:28:04 AM](#)

REPRESENTATIVE GATTO, in response to Ms. Hubbard's previous criticism of the language on page 6, [lines 11-13], regarding "**penalty of perjury**", told Ms. Hubbard to consider that the defense for any member of a recall committee would be in the language at the end of the sentence, which read as follows: "**are true to the best of the member's knowledge.**"

[8:29:27 AM](#)

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

The committee took an at-ease from [8:30:13 AM](#) to [8:31:11 AM](#).

[8:31:37 AM](#)

CHAIR SEATON moved Conceptual Amendment 1, which read as follows [original punctuation provided]:

Page 2 line 26 and line 27  
Delete all material in (3) and (4)

[8:31:50 AM](#)

REPRESENTATIVE GATTO objected for discussion purposes.

[8:31:58 AM](#)

CHAIR SEATON said there is a memorandum in the committee packet from Legislative Legal and Research Services, which identifies the constitutional grounds on which the courts have looked at residency. He mentioned the right of free speech.

[8:33:03 AM](#)

REPRESENTATIVE RAMRAS said most of his efforts in the bill are borne from his experience in collecting signatures and seeing much abuse of the system. He compared some professional signature collectors as those who are like carnival workers and follow the money. He said he objects to people from out of state coming to Alaska, registering to vote, and acting like citizens of Alaska in order to collect signatures. He offered examples.

[8:36:43 AM](#)

REPRESENTATIVE RAMRAS described types of collectors, those from out of state and those true Alaskans who are passionate about collecting. He shared an anecdote about a local signature collector.

[8:39:21 AM](#)

REPRESENTATIVE RAMRAS talked about a signature collector from out of state who asked him if he would be giving him "the bump" - an additional administrative fee offered when those needing signatures collected get more desperate. Representative Ramras said he was upset at being asked to cheat on rules by someone who was telling him that cheating has happened during previous referendums. For that reason, he objected to Amendment 1.

[8:40:43 AM](#)

JANE PIERSON, Staff to Representative Jay Ramras, Alaska State Legislature, on behalf of Representative Ramras, sponsor, offered her understanding that the legal opinions to which Chair Seaton had just referred do not relate to being a resident of another state, but to not being registered to vote in another state. She cited AS 15.02.020. She said that there have

"already been rulings that you don't have to be registered to vote to carry a petition," only to sign one.

[8:41:47 AM](#)

CHAIR SEATON mentioned a legal opinion that states that under Buckley v. American Constitutional Law Foundation, 525 U.S. 182 (1999), a state cannot require a signature gatherer to be a registered voter of that state. Chair Seaton said it may be possible to require the signature gatherer to meet the requirement for a 30-day residency.

[8:42:25 AM](#)

ANNETTE KREITZER, Chief of Staff, Office of the Lieutenant Governor, said the language in Amendment 1 is broad. She suggested that the committee amend Amendment 1 so that it only [removes the "not registered to vote in any other state" requirement of Section 2, paragraph (4)], since it may be unconstitutional.

[8:43:16 AM](#)

CHAIR SEATON cited Section 2, paragraph (3), which read:

(3) a resident of the state as determined under AS 15.05.020; and

CHAIR SEATON asked Ms. Kreitzer if that is current language.

[8:43:26 AM](#)

MS. KREITZER clarified as follows:

The current law is that to circulate a petition booklet, a person shall be a citizen of the U.S., 18 years of age, or older, and a resident of the state as determined under [AS] 15.05.020.

[8:44:08 AM](#)

MS. KREITZER, in response to a comment by Representative Gatto, stated her understanding that when a person moves to another state with the intent to register to vote in that new state, he/she is required to notify the previous state.

[8:44:46 AM](#)

REPRESENTATIVE GATTO asked what would happen if that same person had no intent of ever voting in Alaska, but became a resident of the state.

[8:45:13 AM](#)

MS. KREITZER explained:

What will happen is, I think, over time - because of the national motor/voter law - in Alaska it takes about 8 years of [inactivity] and several notices mailed to your last known address. And then eventually you get put on an inactive list, and then eventually after that you get purged. And I would imagine that's what would happen on the California voter rolls.

[8:45:42 AM](#)

CHAIR SEATON asked Ms. Kreitzer to confirm that the requirement for residency in AS 15.05.020 has nothing to do with "being a voter or not a voter ... either in Alaska or any other state."

[8:45:54 AM](#)

MS. KREITZER answered that's correct. In response to a follow-up comment from Chair Seaton, she said she had been corrected by Ms. Pierson, and cited AS 15.05.020 [paragraph (6)], which read as follows:

(6) A person loses residence in this state if the person votes in another state's election, either in person or by absentee ballot, and will not be eligible to vote in this state until again qualifying under AS 15.05.010.

MS. KREITZER stated:

But we don't see ... a problem ... in keeping that as a ... residency requirement under ... [AS] 15.05.020. I can say that pretty strongly. We've discussed this internally - about requirements - and the only issue the Department of Law has raised in our conversations with the sponsor has been on this topic of requiring

people to not be registered to vote in any other state.

[8:47:01 AM](#)

REPRESENTATIVE GATTO asked if a distinction is being made between "registered to vote" and "having voted" in establishing a circulator's privileges in Alaska. He explained, "I mean you could be registered to vote in California, never having voted. Is that different than having voted with regard to this position?"

[8:47:30 AM](#)

MS. KREITZER said Representative Gatto is beginning to get into distinctions that she cannot answer. She said she is relying on the Department of Law's opinion about this section of the bill and the issues that have been raised with the sponsor.

[8:47:55 AM](#)

CHAIR SEATON said he is willing to amend Conceptual Amendment 1 to exclude [paragraph](4).

REPRESENTATIVE RAMRAS said he has no objection to that.

[8:48:38 AM](#)

REPRESENTATIVE GARDNER said she objects to that idea. She offered her understanding that a person is a resident of the state if he/she states that intention, but loses that state residency if he/she votes in another state. However, when a person moves to Alaska, he/she has to wait 30 days before qualifying to vote. She continued:

Our legislature here just voted to spend \$3 million to pay an out-of-state firm to contact voters and influence the vote of Congressional delegates on the [Arctic National Wildlife Refuge (ANWR)] issue. Now, we're paying an Oregon firm to go to the home district of somebody in Ohio to try to change their vote in Washington D.C., and ... we apparently think that that's perfectly all right. So, I don't understand how we would then object to having somebody ... from out of state come up and work on our issues here.

[8:50:24 AM](#)

REPRESENTATIVE RAMRAS responded as follows:

I agree with you 100 percent, Representative Gardner. If you're comfortable with having professionals influence in-state matters, then ... we should maintain these provisions, because that's what's going to happen here in the state of Alaska. That is what the legislature ... directed is that ... we should go do that. And so, if you want that same relationship to exist between circulators and citizens...

[8:51:02 AM](#)

REPRESENTATIVE GARDNER said she thinks the heart of the entire issue is the effect of money in the political process and the fact that people can pay someone to do the collecting that they themselves don't want to do. She said, "If we as a society say that it's acceptable to have large sums of money influencing outcomes of elections, I don't see why we should draw the line and say that that can't happen in initiatives."

[8:52:09 AM](#)

REPRESENTATIVE LYNN noted differences between lobbying and signature gathering. In response to a question from Representative Gardner, he said, "I really haven't had many lobbyists come to my office asking me to sign a piece of paper."

The committee took an at-ease from [8:52:59 AM](#) to [8:55:46 AM](#).

[8:56:00 AM](#)

REPRESENTATIVE GARDNER said she thinks it is clear that during the circulation of a petition, even a person who is registered to vote elsewhere can still be an Alaska resident. She recapped her previous comments regarding the emphasis of money in politics.

CHAIR SEATON moved an amendment to Conceptual Amendment 1, to delete "line 26 and" from Conceptual Amendment 1.

[8:58:31 AM](#)

REPRESENTATIVE GATTO objected.

CHAIR SEATON reminded the committee that [Amendment 1] is conceptual. He clarified that the amendment to Conceptual Amendment 1 would also delete "(3) and", which would leave Conceptual Amendment 1 to read as follows [original punctuation provided]:

Page 2 line 27  
Delete all material in (4)

[8:59:35 AM](#)

REPRESENTATIVE RAMRAS said he supports the amendment to Conceptual Amendment 1.

[9:00:00 AM](#)

REPRESENTATIVE GARDNER removed her objection to the amendment to Conceptual Amendment 1 [previously stated when the idea for the amendment was discussed, but before the amendment was moved by Chair Seaton].

[9:00:28 AM](#)

REPRESENTATIVE GATTO explained that he had objected in order to clarify that only a single item would be deleted: "not registered to vote in any other state". He stated, "I believe you agreed to that, Representative Ramras supported it, so I withdraw my objection at this point."

CHAIR SEATON announced that the amendment to Conceptual Amendment 1 was adopted.

[9:00:42 AM](#)

CHAIR SEATON asked if there was any objection to Conceptual Amendment 1, [as amended].

[9:03:14 AM](#)

CHAIR SEATON, in response to a request from Representatives Gatto and Gardner to clarify the action taken by the committee thus far, explained that if Conceptual Amendment 1, as amended, is adopted, the only language that will have been deleted from Version R is, "(4) not registered to vote in any other state.", and the language remaining will be that on page 2, lines 22-26, which would read as follows:

**Sec. 15.45.001. Qualifications of circulator.** To circulate a petition booklet, a person shall be

- (1) a citizen of the United States;
- (2) 18 years of age or older;
- (3) a resident of the state as determined under AS 15.05.020.

[9:04:46 AM](#)

REPRESENTATIVE GRUENBERG said he does not think a person can legally be a resident of Alaska while still being registered legally to vote in another state. He asked Ms. Kreitzer, "If you move out of the state and become a resident of another state, as a matter of law you have to tell the registrar of voters in the first state that you're no longer a resident. And if you do vote you're illegal, are you not?"

[9:05:16 AM](#)

MS. KREITZER responded that Representative Gruenberg is "treading dangerously close" to Representative Gatto's previous question. She stated that Alaska has a variety of definitions for residency, depending on whether it pertains to obtaining a fish and game license, applying for a permanent fund dividend (PFD), or qualifying to vote. She said statute sets out what is required for residency with regard to voting. She concluded, "All I can tell you is that a person loses residence in this state if the person votes in another state's election."

REPRESENTATIVE GRUENBERG asked, "So, you're saying that it would depend upon the law of the state you came from?"

MS. KREITZER replied that she is not an attorney and is therefore unwilling to offer further response on the matter. In response to a follow-up question from Representative Gruenberg, she said she does not know if there is a federal law on the subject.

[9:07:33 AM](#)

CHAIR SEATON asked again if there was any objection to Conceptual Amendment 1, [as amended]. There being no objection, it was so ordered. He reviewed once more how the language read with the adoption of the amendment.

[9:08:44 AM](#)

REPRESENTATIVE GATTO expressed that he had thought the purpose of the amendment to Conceptual Amendment 1 had been to keep paragraph (4) from being deleted by Conceptual Amendment 1, thus leaving it in the bill.

CHAIR SEATON confirmed with his staff that the action the committee took had followed his intent, which was the opposite of what Representative Gatto was saying and was: to delete paragraph (3) through the amendment to Conceptual Amendment 1, thereby leaving paragraph (3) in the bill, not paragraph (4).

REPRESENTATIVE ELKINS said it seems the committee is beating a dead horse because it must wait to hear from the Department of Law, so he suggested moving on.

CHAIR SEATON responded, "I believe that's where we are; we've had the amendment."

[9:10:01 AM](#)

REPRESENTATIVE GATTO said he would eventually like the following question answered:

Can I be registered to vote in some other state, ... move to Alaska, buy a house, raise children, send them to schools, pay taxes, and be a resident of Alaska, even though I never canceled my registration in any other state?

[9:10:15 AM](#)

CHAIR SEATON moved Conceptual Amendment 2, which read as follows [original punctuation provided, with some handwritten changes]:

Page 3 line 3  
Delete all material beginning with "recieve" [sic] through page 3 line 13

Insert  
... only receive additional reimbursement for itemized, direct expenses incurred while circulating a petition as delineated by regulation."

[9:10:52 AM](#)

REPRESENTATIVE GRUENBERG objected for discussion purposes.

9:11:20 AM

CHAIR SEATON said the committee had received information that legally restricting reimbursement for itemized direct expenses would not "pass muster." He said the idea of Conceptual Amendment 2 is that the Division of Elections will adopt regulations specifying what the direct expenses are. The reimbursement will be for itemized expenses; therefore, it will not be considered a per diem. He said he believes the amendment will satisfy the law.

9:12:12 AM

REPRESENTATIVE RAMRAS stated that the intent of the \$15 a day limit was actually "to add value for the signature collector, not to take something away." He added that the original language was also intended to keep people from "gaming the system." He asked Chair Seaton what the intent behind Conceptual Amendment 2 is, and whether it will add value to the bill.

9:14:04 AM

CHAIR SEATON said one interpretation related to the bill had been that "pay" was anything received over [the \$1 dollar per signature], which would mean that paying someone for traveling expenses would be no different than paying for their meals, which would be illegal payment. He stated, "And that is not the current interpretation of the division that those are not pay; pay is what you receive for the gathering of signatures, and ... reimbursement for actual travel and meal expenses - direct expenses in gathering [signatures] - that is what this is to allow, and to clarify for all voters that ... someone can get their ticket out to Kotzebue paid legally, as well as their meals and other things."

9:15:12 AM

REPRESENTATIVE RAMRAS asked, "What if I'm collecting signatures a block from home? Because a part of the reason why we maintained 100 miles, which is on line 4, was to recognize people who are driving away from their neighborhood. If we delete lines 3-13, then if I take a lunch break ... a door over from my home ..., then I could also submit that as an expense - and I was going to have lunch anyway that day."

9:16:01 AM

CHAIR SEATON replied:

We're not taking about whether you're going to have a lunch, but whether it's in relationship to an expense while you're collecting signatures. And whether you're 20 miles away from home or 100 miles away from home, I ... think that we're trying to ... cut too fine a line here, and I think the intent of the bill has always been you can't get more than \$1 per signature, and you can't get paid by reimbursement for actual expenses - the intent is to allow that. If you want to offer an amendment to the amendment, that's fine. But that's the intent is to clarify, and also that by regulation giving the authority to the division to specify what are direct expenses.

9:17:23 AM

REPRESENTATIVE GRUENBERG stated his support of [Conceptual] Amendment 2, [at which point his previously stated objection to Conceptual Amendment 2 was treated as removed]. He noted the use of the word "delineated" in Conceptual Amendment 2, and he asked Ms. Kreitzer if the phrase normally used is, "as set forth in regulations".

MS. KREITZER indicated yes.

REPRESENTATIVE GRUENBERG moved an amendment to Conceptual Amendment 2, to delete "delineated by" and insert "set forth in".

9:18:20 AM

CHAIR SEATON stated that he would accept that as a friendly amendment. He asked if there was any objection [to the amendment to Conceptual Amendment 2]. There being none, he announced that the amendment to Conceptual Amendment 2 was adopted.

9:18:48 AM

MS. KREITZER directed attention to a footnote on page 2 of a 12/23/05 memorandum [included in the committee packet] from Mike Barnhill, Assistant Attorney General, to Whitney Brewster, Director, Division of Elections. The footnote read as follows [original punctuation provided]:

To date there has been no attempt to describe precisely what expenses are at issue. We assume that only standard expenses are at issue here, such as travel expenses, food and lodging.

MS. KREITZER continued:

I believe that's what I'm hearing the committee say: They who would participate would be covered by regulations promulgated by the division, and [those expenses] would be travel expenses, food, and lodging.

[9:19:10 AM](#)

CHAIR SEATON confirmed that his intent is that the phrase "direct expenses" mean travel, food, and lodging.

[9:20:49 AM](#)

REPRESENTATIVE GRUENBERG recommended using language from the footnote in the bill, as a point of clarification.

[9:21:38 AM](#)

MS. KREITZER said she will leave that up to the bill sponsor.

[9:21:52 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt [Amendment 2] to Conceptual Amendment 2, to insert ", such as travel expenses, food, and lodging," after "direct expenses".

REPRESENTATIVE RAMRAS told Representative Gruenberg that is a good amendment.

[9:22:43 AM](#)

CHAIR SEATON asked if there was any objection to [Amendment 2] to Conceptual Amendment 2. There being none, it was so ordered.

[9:23:01 AM](#)

CHAIR SEATON asked if there was any further objection to Conceptual Amendment 2, [as amended]. There being no objection, it was so ordered.

[9:23:28 AM](#)

CHAIR SEATON moved Conceptual Amendment 3, which read as follows [original punctuation provided]:

Page 4 line 28

Delete all material in section (9)

CHAIR SEATON asked if there was any objection to Conceptual Amendment 3. There being none, Conceptual Amendment 3 was adopted.

[9:24:18 AM](#)

CHAIR SEATON mentioned issues raised by a former testifier regarding a portion of the bill related to penalties [page 6, lines 11-13].

[9:24:31 AM](#)

BROOKE MILES, Executive Director, Alaska Public Offices Commission (APOC), responded to questions from Chair Seaton as follows:

The campaign disclosure law, the lobbying law, and the financial disclosure laws for both legislators and public officials all contain sections that give APOC the authority - and actually require APOC - to assess civil penalties for reports that are filed late or are incomplete. We assess those civil penalties in accordance with the statute and regulation, and we collect them. And then they ... go to the general fund - always.

... I should say that whenever there's ... an administrative process for assessing a civil penalty, I believe that you need to also include the opportunity for appeal at the administrative process, as well, which APOC has through regulation. I ... understand that the Division of Elections is not familiar with assessing civil penalties. However, giving us this section of their law to enforce and assess civil penalties will be very costly to my agency. This is not an area of law in which we currently regulate. ... This is like Anchorage asking us to collect the parking tickets. ... We're going to have to promulgate regulations; we're going to have to

have staff that liaisons with the Division of Elections, because we have no idea who the petition carriers are. This is not an area of law in which we ... have regulatory authority. However, we are familiar with the process of collecting civil penalties.

[9:27:11 AM](#)

REPRESENTATIVE RAMRAS moved to adopt Conceptual Amendment 4, as follows:

On page 2, lines 18-19:

Delete all language

[9:27:56 AM](#)

REPRESENTATIVE GRUENBERG objected [for discussion purposes]. He said:

This is an amendment to AS 15.13.030. The only thing you're doing is adding lines 18 and 19. I think the amendment should be to strike Section 1 of the bill.

[9:28:09 AM](#)

CHAIR SEATON clarified that the effect of Conceptual Amendment 4 would be to delete all the proposed new language to already existing statute [as shown in Section 1 of the bill]; therefore, Representative Gruenberg's amendment to Amendment 4 would be simply to delete Section 1.

REPRESENTATIVE RAMRAS stated his acceptance of the amendment to Amendment 4.

CHAIR SEATON announced, "That was accepted as a friendly amendment." [The amendment to Conceptual Amendment 4 was treated as adopted.]

CHAIR SEATON asked if there was any objection to Amendment 4 [as amended], which he reviewed would delete Section 1, beginning on page 1, line 4, through page 2, line 19. There being no objection, Conceptual Amendment 4, as amended, was adopted.

[9:28:48 AM](#)

REPRESENTATIVE RAMRAS moved to adopt Conceptual Amendment 5, as follows [original punctuation provided]:

Page 5, Line 7. Delete "prepare" and insert "provide to the committee"

Page 5, Line 11. Delete "prepare" and insert "provide to the committee"

Page 4, Line 13. Delete "prepare and insert "provide to the committee"

[9:29:12 AM](#)

MS. PIERSON explained that the Division of Elections does not prepare fiscal notes, but they will be responsible for providing them to the committee.

[9:29:39 AM](#)

MS. KREITZER confirmed that the Office of the Lieutenant Governor does not prepare fiscal notes, and thus, she said she supports the amendment.

[9:30:10 AM](#)

CHAIR SEATON asked if there was any objection to Conceptual Amendment 5. There being none, Conceptual Amendment 5 was adopted.

[9:30:41 AM](#)

REPRESENTATIVE GARDNER referred to [subsection (e)], on page 5, [lines 22-25], which read as follows:

(e) A committee aggrieved by a cost estimate prepared under this section may bring an action in the superior court to have the cost estimate reviewed within 30 days after the date on which the lieutenant governor, or, in the case of a recall petition, the director notifies the committee of the completion of the cost estimate.

REPRESENTATIVE GARDNER remarked that going to court is a costly and time-consuming process. She asked Ms. Kreitzer if there is a way to dispute a cost estimate, short of going to court.

[9:31:12 AM](#)

MS. KREITZER answered that the language to which Representative Gardner referred is presently law, and it would be the legislature's purview to make a change to that law. She said the Office of the Lieutenant Governor does not have an opinion on the subject.

[9:32:25 AM](#)

CHAIR SEATON moved to adopt Conceptual Amendment 6, as follows:

On page 3, lines 22-27:

Delete subsection (f).

CHAIR SEATON reviewed the language that would be deleted, which read as follows:

(f) In determining the sufficiency of a petition, the lieutenant governor, or in the case of a recall petition, the director, may not count subscriptions on a petition

(1) circulated by a circulator who is not in compliance with (b) of this section; or

(2) by an initiative, referendum, or recall committee that is not in compliance with the requirements of AS 15.13.

CHAIR SEATON, regarding the reference to subsection (b), reminded the committee that subsection (b) addresses the reimbursement rate.

[9:33:23 AM](#)

REPRESENTATIVE GATTO objected. He said he is concerned about the person who, in good faith, was willing to sign a petition, and then had his/her name disqualified based on the circulator's error.

[9:34:00 AM](#)

CHAIR SEATON assured Representative Gatto that the purpose of the amendment is to [protect the signatures in the event of a challenge related to the circulator].

[9:34:29 AM](#)

REPRESENTATIVE GATTO removed his objection.

[9:34:37 AM](#)

REPRESENTATIVE RAMRAS objected. He said the heart of the bill is the intent to prevent cheating. He stated that the nature of the bill is not to be punitive toward the people signing petitions, but to be mindful of the people circulating those petitions, who "are often times parasites on the system." He continued:

A lot of rules are around the ballot box, and a lot of rules are around voter registration, and what we're doing is relaxing the rules around petitions, initiatives, referendums, and recalls. And I'm just suggesting that we should maintain the same degree of stringency around this particular part of the process, because ... it's being abused, and it's being hijacked by people that don't live here that are manipulating our system.

[9:36:49 AM](#)

CHAIR SEATON pointed out that the bill would still contain [subsection (d)], which would make the person or organization who violates (b) or (c) [of Section 2] guilty of a misdemeanor.

[9:37:06 AM](#)

REPRESENTATIVE GARDNER suggested that Representative Ramras, rather than thinking of the circulators as parasitic, may consider them as "small business folks trying to make a living in an unusual way."

[9:37:40 AM](#)

CHAIR SEATON directed focus back to Conceptual Amendment 6.

[9:38:12 AM](#)

REPRESENTATIVE GATTO asked Representative Ramras if it would be satisfactory or insufficient "if we could cure the problem by saying that whatever gain was had by the circulator had to be returned, as well as the misdemeanor violation."

[9:38:32 AM](#)

REPRESENTATIVE RAMRAS responded, "We just took that right away by removing Section 1 of the bill." He expounded further on the issue of balance.

[9:39:18 AM](#)

CHAIR SEATON pointed out another instance where the bill would impose a fine, in [Section 2, subsection (e)], which read as follows:

(e) A person who pays a circulator and a circulator who receives compensation other than that permitted under (b) of this section are liable to the state for a civil fine of \$1 for each signature gathered by the circulator on a petition.

[9:39:28 AM](#)

A roll call vote was taken. Representatives Gardner, Gruenberg, and Seaton voted in favor of Conceptual Amendment 6. Representatives Lynn, Ramras, Gatto, and Elkins voted against it. Therefore, Conceptual Amendment 6 failed by a vote of 3-4.

[9:40:12 AM](#)

REPRESENTATIVE GARDNER, regarding [subsection (e), text provided previously], asked, "Are each of them liable? ... Against whom would the fine be assessed?" She also asked, "If I'm doing work for somebody, and the rate is a certain amount, and they pay me an incorrect amount, ... is that my fault if the amount is wrong, if I've turned in the paperwork and it's incorrectly calculated?"

[9:40:50 AM](#)

REPRESENTATIVE RAMRAS responded that the two parties involved would be the petition sponsor and the petition circulator. One example of dishonesty in petition gathering, he said, would be a person who got people to sign by making them believe he/she was acting as a circulator out of conviction, only to fill in the name of the paying sponsor after all the signatures were collected.

REPRESENTATIVE RAMRAS suggested adding the word "knowingly" on page 2, line 19, so that the language would be: "A person who knowingly pays a circulator and a circulator who knowingly receives compensation other than that permitted under (b) of

this section". He mentioned an initiative by Representatives Croft, Crawford, and Guttenberg, and said, "I watched people play and prey on their initiative in the same manner they did ours, and it wasn't the people that were signing it."

[9:43:24 AM](#)

REPRESENTATIVE GARDNER said she would still like an answer to her question.

[9:43:28 AM](#)

REPRESENTATIVE GRUENBERG proffered that the answer to Representative Gardner's question is that "they each could be fined a dollar," because the word "and" is used.

[9:44:02 AM](#)

REPRESENTATIVE GARDNER, in response to Representative Ramras' comments, said she thinks most people who sign a petition don't know or care what the sponsor's name is, nor do they know or care why the circulator has chosen to stand on the corner. She stated that it is the issue that determines whether a person signs, or not.

[9:44:38 AM](#)

REPRESENTATIVE GRUENBERG cited AS 15.45.580 [(a)], which read:

Sec. 15.45.580. Circulation; prohibitions.

(a) The petitions may be circulated only in person throughout the state or senate or house district represented by the official sought to be recalled.

REPRESENTATIVE GRUENBERG said during a prior hearing of the bill, there had been discussion as to whether a circulator could only collect a signature within the boundaries of the district. The feeling of the committee, he recollected, was that a circulator should be able to collect the signature anywhere, as long as it was the signature of a person who [resides] in the district of the elected official who was being recalled.

REPRESENTATIVE RAMRAS, in response to a question from Chair Seaton, said he would entertain an amendment related to this issue.

[9:46:04 AM](#)

REPRESENTATIVE GRUENBERG said the bill drafter, Katheryn L. Kurtz, was going to fix that language in the latest draft, but did not do so. He directed attention to page 6, [line 27], and said, "[AS] 15.45.580 is still repealed; she didn't cure the problem."

[9:46:29 AM](#)

MS. PIERSON confirmed that "the problem has not been cured."

[9:46:54 AM](#)

MS. KREITZER explained that "many things that were spread out ... have now been consolidated." She directed attention to the bottom of page 2, line 28, which addresses AS 15.45.003, circulation and prohibitions. She said, "That used to say, "A petition may be circulated only in person in the state", and there used to be another line there that said, "or in the case of a recall it can only be circulated in the district". She stated, "And so, by deleting that I believe we have already cured the problem."

[9:48:10 AM](#)

REPRESENTATIVE GRUENBERG acknowledged Ms. Kreitzer's comments, but said he would like the language to say "a little more than that." He explained that he would like the bill to specify that "the only people who can sign the recall petition are residents in the effected district." He explained, "I'm not concerned about where the signature is obtained; I'm concerned about who it's obtained from."

[9:48:56 AM](#)

MS. KREITZER said she doesn't have her statute book with her, but she had thought that elsewhere in statute it is explicit that, in the event of a recall, the only people who can sign are the people who live in the district [of the person being recalled].

[9:49:34 AM](#)

REPRESENTATIVE GARDNER shared that in her experience she has found that a lot of people really don't know in which district they live. She said she can envision people signing a petition

from a district that is not theirs. She stated her assumption that if that were to happen, there would be no penalty other than that the signature would not count.

REPRESENTATIVE GRUENBERG said his intent is that the signature would not count.

[9:50:14 AM](#)

MS. PIERSON told Representative Gruenberg she believes he is "correct in eliminating [AS] 15.44.580." She read [subsection(a), text provided previously].

[9:50:49 AM](#)

CHAIR SEATON suggested:

Why don't we just offer a conceptual amendment that ... the drafter will draft language specifying that the petition signatures for a recall shall be by a person registered to vote in a district, but they don't have to be collected physically from within the district.

[9:51:18 AM](#)

REPRESENTATIVE GRUENBERG clarified that he wants the language somewhere in the bill to specify that the only signatures that will be counted in a recall are those from registered voters in the affected district.

[9:51:36 AM](#)

MS. KREITZER suggested that the issue could be addressed in the next committee of referral, the House Judiciary Standing Committee, which would give her time to research the issue.

[9:51:59 AM](#)

REPRESENTATIVE GRUENBERG agreed.

[9:52:13 AM](#)

CHAIR SEATON said he would send notes to the House Judiciary Standing Committee regarding the testimony heard by the House State Affairs Standing Committee.

[9:52:28 AM](#)

REPRESENTATIVE GRUENBERG directed attention to the definitions on page 6. He said it seems that often, definitions "depend upon the circumstances in the case." He talked about a legal tome called, "Words and Phrases," which addresses the issue of how definitions are used in the event of litigation. He noted that the Ogan Is So Gone recall wound up in litigation, and he stated that a recall only winds up in litigation if somebody challenges the grounds for the recall. He said the judge in the case stated that the policy is that recalls are broadly construed to preserve the rights of the people to participate.

CHAIR SEATON asked Representative Gruenberg if he intended to offer an amendment.

[9:54:05 AM](#)

REPRESENTATIVE GRUENBERG responded, "I'm going to move to strike Section 4."

CHAIR SEATON announced his intent to hold over HB 438 and deal with the issue at another time.

[9:54:18 AM](#)

REPRESENTATIVE GARDNER said she would like to see a copy of the arguments made during the Ogan v. Division of Elections case. She asked Ms. Kreitzer if she has a copy available.

[9:54:39 AM](#)

[MS. KREITZER nodded.]

[HB 438 was heard and held.]

[9:55:05 AM](#)

SB 250-DOMESTIC VIOLENCE/SEXUAL ASSAULT COUNCIL

[9:55:12 AM](#)

CHAIR SEATON announced that the last order of business was SENATE BILL NO. 250, "An Act extending the termination date of the Council on Domestic Violence and Sexual Assault; and eliminating statutory references to the network on domestic violence and sexual assault."

9:55:25 AM

W. TOM MAHER, Staff to the Legislative Budget & Audit Committee, Alaska State Legislature, presented SB 250 on behalf of the Senate Rules Committee, sponsor by request of the Legislative Budget & Audit Committee. He noted that Senator Gene Therriault is the chair of the Legislative Budget & Audit committee. He noted that last year, through statute, the mandatory sunset time period was changed from four years to eight years. He explained, "As the sunset process has matured, we're looking less at eliminating these entities than measuring their effectiveness and performance." He continued as follows:

In this sunset review, [the Division of Legislative Audit] concluded that the Council on Domestic Violence and Sexual Assault continues to provide a public need and is operating in the public interest. Page 7 of the [audit] report [included in the committee packet] has those conclusions. Accordingly in the bill, Section 3 extends the sunset date for the council from June 30, 2006, to June 30, 2014.

The audit also, on page 9, addresses some ongoing operational concerns that include staff turnover and the failure of the council to address two of its statutory mandates regarding working with the Department of Education & Early Development and school districts on curricula for the cause, prevention, and treatment of domestic violence and sexual assault, and also a lack of coordination with the Department of Health & Social Services on the delivery of services to the victims of domestic assault by health care facilities and other providers. These are ongoing issues with the council, and in its response, the council says they are working to resolve them. The committee may want the council director to update them on their progress.

MR. MAHER said Sections 1 and 2 of the bill address another recommendation directed at the legislature, which is shown on page 11 of the report. He said the auditor recommends that the legislature amend the council statutes related to the appointment of council members. He relayed that the council is comprised of seven members, three of whom are appointed by the governor, and four of whom are designated in statute to be department heads, one each, from the Department of Law, the

Department of Education & Early Childhood Development, the Department of Health & Social Services, and the Department of Public Safety. Current law requires the Network on Domestic Violence & Sexual Assault, a nonprofit corporation, to submit a list of recommended candidates to the governor for appointment when a vacancy occurs on the council. Further, he noted, statute requires that the governor fill any unexpired term of a council member after consultation with the network. Mr. Maher stated, "Since the network annually receives a grant from the council for a legal and advocacy project, and the appearance of conflict exists when a council member reviews, evaluates, and approves, and monitors a grant to the same nonprofit organization that may have been responsible for recommending that individual - the appointee to the council - we feel a conflict exists." The proposed legislation would delete both statutory references that produce this conflict, he said.

MR. MAHER pointed out that there is a zero fiscal note with the bill, which is produced by the Department of Public Safety. He reviewed that funds for the council are already included in the governor's fiscal year 2007 (FY 07) proposed operating budget; therefore, there would be no additional fiscal impact "due to the extension of the council."

[9:59:43 AM](#)

CHAIR SEATON said he thinks everyone on the committee would agree that the issue of domestic violence and sexual assault is of primary significance within Alaska. Regarding the function of the council, he stated, "Our responsibility is not only to maintain things, but [also to] make sure that we were working on them in an effective manner." He said he would like to hear testifiers' opinions relating to the council's plan and whether or not the existing mechanism is effective.

[10:01:01 AM](#)

PAT DAVIDSON, Legislative Auditor, Legislative Audit Division, Legislative Agencies & Offices, stated her understanding that it was in the early 1990s that the mission of the council was significantly expanded, and with that expansion the staff also increased. Ms. Davidson said the audit done revealed two functions of the council - originally highlighted about four years ago during the last audit - that "still hadn't been resolved yet." She said, as Mr. Maher indicated, those two functions were the coordination with the schools and the Department of Health & Social Services. She stated, "When staff

are churning, it does make it more difficult to get things accomplished." She concluded, "As the council tries to address those issues, we hope and expect that they are going to take on these statutorily mandated items and start dealing with those."

[10:03:44 AM](#)

CHAIR SEATON requested that Barbara Mason, the Executive Director of the Council on Domestic Violence and Sexual Assault, provide for the committee the council's action plan, meeting agenda, and council member attendance and minutes of past meetings.

[SB 250 was heard and held.]

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:04:30 AM](#).