

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 29, 2005

3:57 p.m.

MEMBERS PRESENT

Senator Gene Therriault, Chair
Senator Thomas Wagoner, Vice Chair
Senator Charlie Huggins
Senator Bettye Davis

MEMBERS ABSENT

Senator Kim Elton

COMMITTEE CALENDAR

SENATE BILL NO. 59

"An Act relating to service as a diplomat in the United States Foreign Service as an allowable absence from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 132

"An Act relating to complaints filed with, investigations, hearings, and orders of, and the interest rate on awards of the State Commission for Human Rights; making conforming amendments; and providing for an effective date."

MOVED SB 132 OUT OF COMMITTEE

SENATE BILL NO. 143

"An Act amending the definition of the term 'state agencies' as it applies under Executive Order No. 113; relating to information systems in the legislative branch and to the Telecommunications Information Council; and providing for an effective date."

MOVED CSSB 143(STA) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 26

"An Act relating to the voting rights of felons."

HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 8
Expressing support of Alaska Army National Guard soldiers
deployed worldwide.

MOVED HJR 8 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 59

SHORT TITLE: PFD ALLOWABLE ABSENCE FOR DIPLOMATS

SPONSOR(s): SENATOR(s) DYSON

01/14/05 (S) READ THE FIRST TIME - REFERRALS
01/14/05 (S) STA, FIN
03/29/05 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 132

SHORT TITLE: HUMAN RIGHTS COMMISSION

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/04/05 (S) READ THE FIRST TIME - REFERRALS
03/04/05 (S) STA, JUD
03/17/05 (S) STA AT 3:30 PM BUTROVICH 205
03/17/05 (S) Heard & Held
03/17/05 (S) MINUTE(STA)

BILL: SB 143

SHORT TITLE: STATE INFO SYSTEM PLAN: LEGISLATURE

SPONSOR(s): STATE AFFAIRS

03/16/05 (S) READ THE FIRST TIME - REFERRALS
03/16/05 (S) STA
03/22/05 (S) STA AT 3:30 PM BELTZ 211
03/22/05 (S) Heard & Held
03/22/05 (S) MINUTE(STA)

BILL: SB 26

SHORT TITLE: FELONS' RIGHT TO VOTE

SPONSOR(s): SENATOR(s) DAVIS

01/11/05 (S) PREFILE RELEASED 12/30/04
01/11/05 (S) READ THE FIRST TIME - REFERRALS
01/11/05 (S) STA, JUD
02/16/05 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
02/16/05 (S) STA, JUD
03/29/05 (S) STA AT 3:30 PM BELTZ 211

BILL: HJR 8

SHORT TITLE: SUPPORTING ALASKA ARMY NATL. GUARD

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

02/02/05	(H)	READ THE FIRST TIME - REFERRALS
02/02/05	(H)	MLV, STA
02/17/05	(H)	MLV AT 1:00 PM CAPITOL 124
02/17/05	(H)	Moved Out of Committee
02/17/05	(H)	MINUTE(MLV)
02/18/05	(H)	MLV RPT 5DP
02/18/05	(H)	DP: GRUENBERG, ELKINS, THOMAS, DAHLSTROM, LYNN
03/08/05	(H)	STA AT 8:00 AM CAPITOL 106
03/08/05	(H)	Moved Out of Committee
03/08/05	(H)	MINUTE(STA)
03/09/05	(H)	STA RPT 5DP
03/09/05	(H)	DP: GARDNER, GATTO, GRUENBERG, ELKINS, SEATON
03/18/05	(H)	TRANSMITTED TO (S)
03/18/05	(H)	VERSION: HJR 8
03/21/05	(S)	READ THE FIRST TIME - REFERRALS
03/21/05	(S)	STA
03/29/05	(S)	STA AT 3:30 PM BELTZ 211

WITNESS REGISTER

Senator Fred Dyson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor SB 59

Lucky Schultz,
Staff to Senator Dyson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Answered questions on SB 59

Joel Kopp, Diplomat
U.S. Foreign Service
Monterrey, Mexico
POSITION STATEMENT: Testified in support of SB 59

Darwin Peterson
Deputy Legislative Director
Office of the Governor
Alaska State Capitol

Juneau, AK 99801-1182

POSITION STATEMENT: Testified on SB 59 and gave the Administration view on SB 143

Paula Haley, Executive Director
Alaska State Commission on Human Rights
800 A Street, Suite 204
Anchorage, AK 99501-3669

POSITION STATEMENT: Testified on SB 132

Steve Smith,
University of Alaska Anchorage Representative
Anchorage, AK

POSITION STATEMENT: Testified in support of SB 143

Amanda Wilson,
Staff to Senator Davis
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SSSB 26

Alonzo Patterson JR.,
Shiloh Missionary Baptist Church
Anchorage, AK

POSITION STATEMENT: Testified in support of SSSB 26

Michael Macleod-Ball, Executive Director
(ACLU)

P.O. Box 201844
Anchorage, AK 99820-1844

POSITION STATEMENT: Testified in strong support of SSSB 26

Portia Parker, Deputy Commissioner
Department of Corrections
431 N. Franklin, Suite 400
Juneau, AK 99801

POSITION STATEMENT: Raised questions regarding SSSB 26

Terry Harvey
Staff to Representative Bruce Weyhrauch
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Introduced SJR 8 for sponsor

Lieutenant Colonel Mike Bridges,
Alaska National Guard
Anchorage, AK

POSITION STATEMENT: Supported SJR 8

ACTION NARRATIVE

CHAIR GENE THERRIAULT called the Senate State Affairs Standing Committee meeting to order at [3:57:31 PM](#). Present were Senators Wagoner, Huggins, Davis and Chair Therriault.

SB 59-PFD ALLOWABLE ABSENCE FOR DIPLOMATS

CHAIR GENE THERRIAULT announced SB 59 to be up for consideration.

[3:58:17 PM](#)

SENATOR FRED DYSON, sponsor, explained that SB 59 adds diplomats serving in the U.S. Foreign Service to the list of people who qualify for an allowable absence for purposes of continuing to receive a Permanent Fund dividend while living outside of Alaska. Thirty Alaskans might be serving in this category.

CHAIR THERRIAULT referenced the fiscal note and asked how he proposed to define and limit "diplomat."

[4:00:45 PM](#)

LUCKY SCHULTZ, Staff to Senator Dyson, said it would be a Foreign Service officer or a specialist on active duty with the U.S. Department of State.

CHAIR THERRIAULT questioned whether the definition is currently in statute or would it be developed under regulation.

MR. SCHULTZ said the proposal is to provide a definition in either the new or an additional section.

CHAIR THERRIAULT asked if the drafter advised that there was no definition for the term.

SCHULTZ answered no.

CHAIR THERRIAULT pointed out that legislators frequently receive requests to include different categories of individuals to the allowable absence list and he has a strong view on the issue. He wasn't sure how the sponsor would prevent a sort of "Christmas treeing of the idea."

SENATOR DYSON acknowledged it's a legitimate concern.

CHAIR THERRIAULT asked if these individuals reside in Alaska when they aren't assigned elsewhere.

SENATOR DYSON said he assumes that they maintain a voting address here and use Alaska as a residence of record. When not assigned they return to the state.

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SENATOR THOMAS WAGONER said he doesn't object to the bill but he'd like sideboards requiring the funds be placed in a special account until the individual returns and establishes the fact that he/she is going to reside in the state.

CHAIR THERRIAULT said that discussion was held for college students that went out of state for school. The legal advice was that if you make the determination that the individual is eligible, it's a property right and there is no ability to deny access.

SENATOR WAGONER responded we should ask the legal minds to give us a method that will work instead of a reason why it won't.

SENATOR BETTYE DAVIS asked the sponsor if he is aware of any individuals who previously served in the U.S. Foreign Service and now reside in Alaska.

SENATOR DYSON replied he probably does but he couldn't think of anyone right then.

CHAIR THERRIAULT advised that he wanted to work with the sponsor's staff on the definition for "diplomat."

SENATOR DYSON said he understood that a diplomat was going to call in from Mexico.

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JOEL KOPP testified that he is a Foreign Service officer working in Monterrey Mexico. He was born, went to school, and worked in Alaska before joining the Foreign Service. Up to that time he qualified for and received every Permanent Fund dividend that was issued.

He said he is testifying to communicate that denying the Permanent Fund dividend because he and other Alaskans are in diplomatic service is inconsistent with what appears to be the values of the PFD program as evidenced by the list of absences that are allowed.

Military personnel and congressional staffers are apparently included because they have chosen a profession of high service to the U.S. that requires absence from the state. He said diplomats consider it an honor to represent the U.S. government abroad and Alaska should be proud of its residents who have achieved that profession. Support should be expressed tangibly by not denying a dividend.

It's important to realize that he isn't a resident of another state. If he's not an Alaskan then he's stateless because if Alaska doesn't treat him as a resident there is certainly no other state that would do so.

The argument put forth that diplomats should be excluded because they don't need the money is unsustainable. The PFD program has always been about equal treatment for Alaskans. It doesn't matter how much money you have or don't have.

Another argument is that if the program is open to Foreign Service personnel it would open the door for other groups. His response is that there may or may not be other groups that should be included in the PFD program. Offering that as a reason is a red herring, he said. Each group should be evaluated on merit.

Alaska Foreign Service personnel are a small group that has little political power. However, they serve and represent Alaska in a way that would make Alaska proud.

He thanked Senator Dyson for sponsoring the bill.

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CHAIR THERRIAULT asked if he was hired directly out of Alaska.

MR. KOPP said yes, the State Department paid for his move from Kenai.

CHAIR THERRIAULT asked if his tour of duty that has a definite end date after which he would be required to move back to the U.S.

MR. KOPP explained that when you're in the Foreign Service your tour of duty is either in a foreign country or in Washington DC. Tours always have a definite time and between tours the diplomat is allowed home-leave and by congressional law you must return to your home. He said he would be back in Alaska this coming summer.

CHAIR THERRIAULT asked if his next tour of duty would be in Washington DC.

MR. KOPP said it would, but there is no standard regarding where you would go.

CHAIR THERRIAULT asked if his family was with him.

MR. KOPP answered yes, he's married with three sons.

SENATOR CHARLIE HUGGINS asked when he joined the Foreign Service.

JOEL replied his hiring date was 2002.

SENATOR HUGGINS asked if there was any doubt when he joined about whether or not he would receive the Permanent Fund.

MR. KOPP said, "I wanted to be denied the dividend just to have that as the listed reason as the refusal..." He said he continued to apply and then once he moved over seas he was denied.

SENATOR HUGGINS said then when you left Alaska you understood you wouldn't receive the dividend.

MR. KOPP replied he realized that was almost a certainty.

SENATOR DYSON said his argument for sponsoring the bill is that a condition of the job makes it difficult to impossible to return to the state every 180 days to maintain the qualification. He asked if that is true.

MR. KOPP agreed it is virtually impossible.

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SENATOR THOMAS WAGONER asked how military personnel are treated.

CHAIR THERRIAULT stated that military service is an allowable absence.

SENATOR WAGONER asked if there weren't sideboards limiting the number of years.

CHAIR THERRIAULT replied they must remain in active duty and after a certain number of years the requirement becomes more difficult.

SENATOR WAGONER suggested reviewing the requirements because there is a parallel. Both entail reassignments away from home base.

SENATOR DYSON said that's what we're amending. He directed attention to item 3 at the bottom of page 1 and the top of page 2, the additions in the old Section 14, and the renumbered Section 15.

MR. KOPP agreed there are a lot of parallels between the military and diplomatic service.

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SENATOR HUGGINS suggested there are differences. He asked Mr. Kopp if he carries a weapon.

MR. KOPP answered no.

SENATOR HUGGINS asserted the differences outweigh the similarities.

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CHAIR THERRIAULT announced he would hold SB 59.

SB 132-HUMAN RIGHTS COMMISSION

[4:22:01 PM](#)

CHAIR GENE THERRIAULT announced SB 132 to be up for consideration.

DARWIN PETERSON, Deputy Legislative Director, Office of the Governor, said the previous hearing ended with discussion on Section 4, which the Human Rights Commission did not support.

The Administration's position is that Section 4 is a legitimate provision in the legislation.

He pointed out that the bill says that the commission may use its discretion to review the executive director's order of dismissal. By regulation the commission used to do that. They stopped because they agreed with the executive director most of the time.

The Administration does not intend to require the commission to review all the appeals or dismissals by the executive director. However, the commission should have the authority to supervise its own staff and if it happens to disagree, it could review that dismissal by the executive director. If the commission doesn't have that authority there really isn't any need for a commission. The executive director could do all the work.

The language was drafted to give the commission flexibility. The Administration is open to suggestion, he said.

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CHAIR THERRIAULT verified the language is permissive.

MR. PETERSON answered yes.

PAULA HALEY, Executive Director, Human Rights Commission, participated via teleconference to say she was available to answer questions. Commissioner Grace Merkes had intended to be available, but was attending a funeral.

CHAIR THERRIAULT said he is baffled why the commission would oppose the permissive language in Section 4.

MS. HALEY replied her understanding is that the concept of review isn't the concern. The commission repealed the regulation allowing review because of dwindling resources. She understood Chair Fitzpatrick to say that the concern relates to putting into statute what was previously in regulation because that essentially creates a right. The reality is that people will apply for reviews and that would cost the commission a considerable amount of time and effort.

The Alaska Supreme Court has ruled that when review is made available before the Human Right's Commission, a complainant who believes that the staff has made a decision error has a right to request the complaint file in its entirety in order to craft a

request for review. This entails making a copy of the file and redacting any documents that would not be disclosed.

Furthermore, if a complainant or a complainant's attorney crafts a request for review the commissioners feel they would need legal assistance in sorting some of the more challenging issues.

The commission respects the Governor's point of view that it could be a discretionary review, but the commissioners have clearly said that they would need to review the requests to know whether or not to grant the request.

SENATOR THOMAS WAGONER agreed that it's a matter of redundancy and could be a waste of resources. However, if that could be avoided he would have no problem with the provision.

CHAIR THERRIAULT asked her to respond to the assertion that without the discretion to review there isn't anything left for the commission to do.

MS. HALEY said the commissioners' most important role and function is their quasi-judicial role. When the staff finds substantial evidence of discrimination, which warrants moving to the next stage of investigation, there is a public hearing. The commissioners render the ultimate decision following that public hearing. The commissioners are the judges and the staff presents the case with the complainant and/or an attorney on the other side.

The commissioners also have general oversight of the agency. Because of the agencies unique role in government they direct the activities ranging from regulation change to general policy decisions. Typically it is the commissioners who articulate positions on legislation.

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CHAIR THERRIAULT called on Ms. DeYoung on teleconference.

JAN DeYOUNG, Assistant Attorney General, Department of Law (DOL), said she would give some background on the language and why it was added.

The proposed subsection (a) in Section 4 in AS 18.80.112 is included because the law is silent on what happens in the event of a finding of no substantial evidence in support of the

complaint of discrimination by the assigned investigator. The subject was addressed in regulation but not in statute.

Subsection (a) does the obvious; if there is no substantial evidence of unlawful discrimination the executive director dismisses the complaint. As Ms. Haley stated, the chairperson formerly had the power to review decisions. That regulation was repealed because the commission apparently believed it did not want to exercise that authority.

The idea was not to preclude review or to compel a procedure. It was to provide the commission discretion. By having the statute drafted this way a future commission could adopt a review procedure if it chose to do so.

CHAIR THERRIAULT asked how she would respond to the issue that to decide not to review would entail going through a process that would expend time and resources.

MS. DeYOUNG responded, "There's nothing to compel the commission to undertake the expense of the review." It could adopt a regulation to that effect. The intent was not to change the law it was to address a silence in the law.

CHAIR THERRIAULT asked if it would operate in the same way as an appeal to the court system. An individual could appeal a decision, but the request could be turned down without any reason.

MS. DeYOUNG said it would be similar to what is referred to as a petition to review and the court could decide in a summary fashion to not take up the case.

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CHAIR THERRIAULT ascertained there was no further testimony and closed the public hearing. He mentioned two zero fiscal notes.

SENATOR WAGONER stated that he talked to Commissioner Grace Merkes and she told him that the commissioners feel that additional funds would be necessary if the provision in Section 4 were included. He recommended that the Finance Committee review the provision closely.

CHAIR THERRIAULT asked Mr. Peterson if he had discussed the potential fiscal impact with the commission.

MR. PETERSON replied the Human Rights Commission submitted a request for funds because of Section 4. The Office of Management and Budget disagreed because the Administration testified that the intent with Section 4 is that it would be permissive and open. He said, "The commission is able to adopt regulations to not conduct those reviews. If they do then the Governor's Office can take care of any additional funds that they would need through the normal budget process. ... In FY 07."

[4:40:16 PM](#)

SENATOR WAGONER motioned to report SB 132 from committee with individual recommendations and attached fiscal notes.

Seeing no objection, Chair Therriault announced SB 132 would be forwarded to the Senate Judiciary Committee.

SB 143-STATE INFO SYSTEM PLAN: LEGISLATURE

[4:40:48 PM](#)

CHAIR THERRIAULT announced SB 143 to be up for consideration. He informed members that an amendment was adopted during the first hearing on SB 143 and discussion took place regarding whether the University of Alaska should be removed along with the Legislature.

He reported that Pete Kelly gave two reasons why the university should be taken out of Department of Administration IT system. First, the university deals with super computers and IT that is out of the ordinary. Second, as an educational institution, hardware and software manufacturers frequently approach the university with special deals. He asked Mr. Smith to respond.

STEVE SMITH, University of Alaska Anchorage, related that as a public educational system, the university receives special pricing on software, hardware, applications and sometimes telecommunications.

The university uses an Oracle database system behind the core applications and Oracle gives the university an educational price for that. Similarly, the university uses the Microsoft desktop utility and it receives special educational pricing. Sun hardware is used in research and a distinct price advantage is given. About 40 percent of the computers on the Fairbanks campus are Apple and the university receives special pricing for those.

In addition to the special pricing, the university uses applications that are specific to the university. For instance the student information-system application is specific for university use. It keeps track of student transcripts and records and to make sure the university adheres to FERPA laws relating to student privacy. In addition the university uses a course management system that is specific to higher education. The application makes it possible for instructors to put course information on-line.

Furthermore there are needs that are specific, special, and unique to a university system such as research and instruction. With the high-performance computing and networking, specifically with the supercomputer in Fairbanks but also with other departments, there are specific needs for databases or systems used to collect and analyze data for research. This, he said, is tied closely to instruction. Examples of that are the CISCO academies that are run through a number of the campuses to train students on networking. There are specific separate setups to be able to do that kind of training. For research and instruction to be cutting-edge the university must use a variety of systems.

MR. SMITH said while they adhere to university wide standards, flexibility is needed to meet research and instructional demands. For example, the university partners with other universities to work on Internet II, which is the next generation Internet. Internet II has set standards that the university must adhere to so that the researchers can collaborate. Students also have access to that. Those standards may not be the same as those used within state government, but those are the standards that work for the university.

Certain contributions and partnerships are made specifically for use by the university. Contributions have come from Alaska Fiber Star and GCI and other carriers with the specific criterion that it only be used for education and research. Partnerships with other universities and research entities are not uncommon so applications need to be in line with other education and research institutions.

"We would like you to consider that the university may have similar consideration to the judicial and legislative branches," he said. In closing he said the university adheres to standards and works to coordinate, collaborate and share with state agencies whenever possible.

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CHAIR THERRIAULT noted that the Board of Regents is constitutionally charged with setting policy for the university system. He questioned whether it had established an overall IT policy for the university.

MR. SMITH answered yes and he is the chief IT officer. That is a defined officer in university policy and it describes his areas of responsibility and his duties. New policy was instituted at the last board meeting to include language to require all IT investments to be reviewed through his office. Finally, the most extensive language in policy relates to user rights and expectations.

SENATOR WAGONER asked what kind of time constraint his office places on itself when it reviews IT requests for change or new equipment.

MR. SMITH replied the actual policy language doesn't describe how it would be done and all the procedures aren't in place since this was just passed at the last board meeting. However, in practice it would be coordinated with the procurement offices at each main campus. With the delegation it means that at appropriate places those practices and the review process will be reviewed, but if something doesn't look right the central office would become involved.

CHAIR THERRIAULT asked Mr. Peterson if he could offer an opinion from the Administration.

MR. PETERSON replied the Administration has no problem with the university being exempt from the definition of state agency. He added, "Any other agency of the state though we would like to have a discussion about that. Only because there is an internal process within the Administration for that to occur."

CHAIR THERRIAULT moved conceptual AMENDMENT 2 to include the university in the list of exempt agencies. There being no objection, conceptual AMENDMENT 2 passed.

There were no further questions or testimony. He noted the zero fiscal note and asked Senator Wagoner for a motion.

SENATOR WAGONER motioned to report CSSB 143(STA) and attached zero fiscal note from committee with individual recommendations.

CHAIR THERRIAULT announced that without objection, it was so ordered.

SSSB 26-FELONS' RIGHT TO VOTE

CHAIR GENE THERRIAULT announced SSSB 26 to be up for consideration.

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AMANDA WILSON, Staff to Senator Davis, explained that SSSB 26 addresses Alaska voting laws. The Alaska State Constitution has a provision that a person who is convicted of a felony of moral turpitude loses the right to vote until his/her civil rights are restored. Under statute a person's civil rights are restored upon unconditional discharge. Unconditional discharge is defined in statute as being discharged from probation or parole provisions after having served the sentence.

The problem associated with this is demonstrated in the example of a person who is convicted of a felony of moral turpitude and receives a six-months sentence. After 6-months incarceration comes probation and that can extend for a decade. The probation period is not necessarily in line with what the judge thought the sentence should be, she said.

While on probation the person pays taxes, maintains employment, and perhaps raises a family, but he/she may not vote. SSSB 26 proposes to change the law to state that once a person is released from incarceration, he/she would have the right to vote. This changes no other rights or obligations, but it brings the person back into society in a meaningful way. Furthermore, studies have shown a person who votes is much less likely to recidivate than a person who doesn't vote.

She suggested that the process would be rehabilitative to participate in the community and public process of voting. To bolster that point she read from President Bush's 2002 State of the Union Address as follows:

This year some 600,000 inmates will be released from prison back into society. We know from long experience that if they can't find work or home or help they are much more likely commit crime and return to prison. America is the land of a second chance and when the gates of the prison open the path ahead should lead to a better life.

MS. WILSON said that although Alaska Natives make up just 15.6% of the population, fully 37.4% of the disenfranchised population is Alaska Native. Similarly, African American's make up 3.5% of Alaska's population, but account for 8.2% of the disenfranchised. She said these numbers indicate a greater impact on the minority community.

"Felony disenfranchisement is the last major form of disenfranchisement," she said. However, in the last seven years a number of states have addressed this issue and two have removed felony disenfranchisements altogether. The American Bar Association and the National Association of Mayors have endorsed this concept and she urged the committee to do the same.

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CHAIR THERRIAULT referenced the sponsor statement and noted that Alaska isn't out of step with the majority of states. Fully 21 states have the same provision and 14 states have permanent disenfranchisement.

SENATOR DAVIS acknowledged that Alaska is in the middle.

SENATOR THOMAS WAGONER commented he doubts that when an individual commits a felony that he/she thinks about losing the right to vote. He suggested it is a consequence of the action and he doesn't understand why the committee would worry about that. Furthermore he wasn't sure how many would exercise the right.

CHAIR THERRIAULT said a number of considerations go into setting the jail time and length of parole and he didn't believe it was fair to say that the judge thought the person should serve just 6-months and all rights should be restored at the end of the 6-month period. The Legislature may have made the policy call that the sentence should be 5-years and the judge could mitigate that by giving part of the sentence as parole.

SENATOR DAVIS responded the Legislature did make that policy call and that's why she introduced the bill. "It's time for us to look at it again," she said. Just because someone didn't think about losing the right to vote when committing a crime doesn't mean that he/she wouldn't exercise the right if it were given.

SENATOR WAGONER said he thought if a person was convicted and did 9 months in jail he/she would be on parole in his/her own community.

CHAIR THERRIAULT said Portia Parker could address the particular questions.

SENATOR CHARLIE HUGGINS assumed the majority of the people in the population under discussion probably weren't registered to vote prior to committing the felony.

MS. WILSON replied 4,643 Alaskans were registered to vote and lost the right as a result of a felony conviction.

SENATOR HUGGINS responded, "The question is whether they voted or not." He further assumed that for a felon, being able to vote is not an important thing in his/her life.

MS. WILSON replied she hadn't done that poll, but if it's important to a few it should be important. It's a part of the rehabilitative process and some people often don't realize that they lost the right to vote until they're released from prison.

SENATOR WAGONER clarified he said that the parole period is part of the sentence. Losing the right to vote isn't part of the sentence but with the parole period comes the loss of the right to vote.

CHAIR THERRIAULT said if 4,600 people were previously registered to vote and had lost that right then passing this bill would give the right to vote to a much larger group.

MS. WILSON replied just the people who are on parole or probation would be re-enfranchised.

CHAIR THERRIAULT said those people who are out on parole and weren't previously registered to vote would have the right to vote if this were to pass.

MS. WILSON said yes.

SENATOR HUGGINS remarked there are several things, such as voting, that you do for your country. He elaborated, "The other would be to go to Iraq or Afghanistan to defend your country. The same people we're talking about here would not meet the prerequisite to go to Afghanistan or Iraq." He asked Senator Davis whether she would agree with that statement.

SENATOR DAVIS responded she didn't necessarily agree because she didn't know the qualifications, but some convicted felons do serve in the military.

SENATOR HUGGINS said it would require a waiver and his point is that when you become a felon, there are things such as voting or going to defend your country that you simply cannot do. However, he said, "I think you could probably make a case that it might be as good a thing as anything for recidivism if they could go to Iraq..."

SENATOR DAVIS stated the intent of SB 26 is to give people the right and opportunity to vote if they want to exercise that right. The idea certainly isn't that you have to go to Iraq to get the right to vote back. "That's not what we're concerned about and neither should you be concerned about that," she declared. Once you've served your time you should get back the right to vote.

SENATOR HUGGINS clarified his point that felons are precluded from service to country without a waiver.

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CHAIR THERRIAULT remarked there is a right to vote in this country as long as you keep the compact with society. Committing a felony breaks that compact, which is why the freedom of movement is revoked. The right to vote is the same. You can be incarcerated and serving your sentence isn't limited to the time spent behind bars. He said he would like Ms. Parker to clarify whether or not it's possible to commit a felony in Alaska and have no jail time. If you serve no jail time and didn't lose the right to vote, "I'm not sure my constituents are ready for people committing felonies and paying no price," he said.

SENATOR DAVIS asked if the people in his district appreciate the fact that you might commit a felony and not serve any time at all. It still happens, she said.

CHAIR THERRIAULT agreed that you might maintain the right to move around but you'd lost your right to vote.

SENATOR DAVIS responded, "That's what I'm trying to correct."

MS. WILSON clarified the technical point that some convicted felons serve jail time and don't lose the right to vote. It's

only those convicted of felonies of moral turpitude that lose the right to vote. She said the list of those crimes is listed in the bill packet.

CHAIR THERRIAULT opened public testimony.

5:15:04 PM

ALONZO PATTERSON JR., representing the Shiloh Missionary Baptist Church, the American National and Alaskan Baptist Churches, the Interdenominational Ministerial Alliance, the Martin Luther King Foundation of Alaska, and former member of the Alaska State Parole Board spoke via teleconference. He reported that he also served 12 years as chair of the Alaska State Parole Board.

He spoke in strong support of SB 26 and emphasized that sentencing disparity and errors do occur. He further said:

Certainly when one goes to jail a price must be paid. However, please keep in mind, part of the paid programming in the institution is rehabilitation. If rehabilitation is not a high consideration for us then what is? If you take away the hope of an individual in jail, to come out and do better, then you encourage re-incarceration of that person or continued recidivism of that person in the institution.

He urged the committee to pass SB 26. Give them something to reach for, he said.

5:22:49 PM

MICHAEL MACLEOD-BALL Executive Director, Alaska Civil Liberties Union (ACLU), spoke in strong support of SB 26 and drew attention to the letter he wrote to Senator Davis.

Since the mid 1980s the ACLU has supported the right of any individual convicted of any offense to vote. Prisoners should be able to express their beliefs freely except when the state can demonstrate a compelling interest in limiting that expression. "In our view, no compelling state interest can justify barring a prisoner from expressing his or her belief in the form of casting a secret ballot in a popular election."

If rehabilitation is a most important goal for the penal system, what could be more important than ensuring successful reentry into society, he asked. Establishing a comprehensive set of

connections between the offender and the community in which he or she resides advances successful reintegration. Convicted felons who reenter the community on parole or serve on probation face overwhelming odds against successful reintegration yet we expect them to face challenges in the same way as a non-offender. "If that's our demand, we ought to act by the same standard and give the released offender the opportunity to exercise his or her rights as a functioning member of society if in fact they have been released into society."

Referencing NAACP vs. Harvey he said that experts found that there is no rational purpose in denying the vote to parolees and probationers. Furthermore,

Denying suffrage to them, in fact, contradicts the purpose of rehabilitating offenders. Voting is a positive and re-integrative event that connects the offender to his or her community and disenfranchisement laws frustrate offenders in their attempts to reenter society fully and successfully. Disenfranchisement hinders the rehabilitative purposes of parole and probation by denying to parolees and probationers the rights and responsibilities of citizenship and participation in community life necessary to rehabilitation.

MR. MACLEOD-BALL said his letter to Senator Davis cited a study in Minneapolis that found a strong correlation between voting and recidivism. It showed that voters are about half as likely to be rearrested as non-voters. This study supports logic, he said. Since voting is a pro-social endeavor, it has the effect of weaving the offender back into the community. Furthermore, since the purposes of probation and parole are rehabilitative rather than punitive, SB 26 makes particular sense.

In passing this bill, Alaska will join a movement of states that are recognizing that there is no practical reason for arbitrary restrictions on voting rights. In fact, the American Bar Association has taken a position that matches this bill.

"SB 26 offers you the opportunity to work for positive change in advancing the ideals of our nation and the ACLU strongly urges enactment of the bill," he concluded.

[5:29:15 PM](#)

CHAIR THERRIault asked Ms. Parker to come forward.

PORTIA PARKER, Deputy Commissioner, Department of Corrections (DOC), reported that the department has taken no position on the bill, but it does have several concerns regarding implementation and cost.

One issue is the definition of incarceration or incarcerated. A number of offenders are receiving credit for being incarcerated when serving in halfway houses, under electronic monitor, and in treatment beds. These individuals are in the community but they are incarcerated; they are in prison.

The other issue is the confusion between probation and parole. A judge gives probation. If an offender receives a 12-year sentence with 3 years suspended, 9 years would be served and the 3 years would be probationary upon release. However, because of mandatory parole the offender would get out after 6 years. Some of that time could be served in a halfway house. Following the 6 years, the offender is on probation for 3 years and parole for 3 years. In Alaska they run concurrently so supervision is for just 3 years.

CHAIR THERRIAULT asked if the offender is released unconditionally after 9 years.

MS. PARKER said that's correct; they would receive unconditional release and their voting rights would be restored.

Since Peratrovitch, the Department of Corrections can no longer restrict an offender from returning home if he/she is on a waiting list for treatment. "Whether it's alcohol treatment or sex offender treatment, we cannot - as probation and parole - keep them from going back to their hometown as they're waiting to get into a treatment facility or to other services. That was a 2002 case in Peratrovitch."

Another concern is the cost and logistics of letting the Division of Elections know because violation occurs between 30 and 50 percent of the time. Typically, parole violations and/or revocations occur within the first year and it's not uncommon for violation to occur within the first month. Certainly this would increase the workload for the department and the Division of Elections.

[5:34:53 PM](#)

CHAIR THERRIAULT noted the Department of Corrections fiscal note is zero.

MS. PARKER acknowledged that was correct and that the department is working with the Division of Elections to determine the impact. "It would just depend on the volume and turnover," she said.

CHAIR THERRIAULT asked how long a parole violator might spend back in prison and how many times the door might revolve.

MS. PARKER said it depends. If he/she commits a technical violation and a new crime is committed then he/she is revoked and would typically go back into the system and serve the probation/parole time. The offender may also reapply to get out on discretionary parole or they serve and get out in another two-thirds of the sentence.

Often the offender is re-released, but she didn't have data on how often that occurs.

CHAIR THERRIAULT asked if she would be contacting other states that have taken this step to determine the fiscal impact.

MS. PARKER said that would probably be the next step in trying to determine the fiscal impact. She noted that Alaska has the unified system compared to the county system so comparison is challenging.

[5:38:42 PM](#)

SENATOR DAVIS asked her to speak to the form that DOC uses for individuals who will be out on probation. She said her staff was retrieving a copy.

SENATOR HUGGINS asked if the recidivism rate is higher or lower for felony of moral turpitude than other crimes.

MS. PARKER said she didn't have that information; the offenses are wide ranging.

CHAIR THERRIAULT said it ranges from murder in the first degree to unlawful furnishing of explosives to misconduct by a juror.

He asked Senator Davis what she had in mind for a definition for "incarcerated."

SENATOR DAVIS answered as long as they're serving the sentence - even if it's under house arrest - they would be serving their term.

SENATOR DAVIS asked Ms. Parker to speak to the probationary form.

MS. PARKER responded, "This is a letter that is used in the Juneau region. They are a little different in each area." The letter is provided to the offender upon completion of the probation/parole advising that the individual's rights are being restored.

SENATOR DAVIS asked what difference it would make to use this letter under the provisions of SB 26.

MS. PARKER said there wouldn't be any difference. The individual would receive the letter when discharged from prison and going onto probation/parole. She said her concern relates to the number of revocations.

SENATOR DAVIS asked how they use the letter now.

MS. PARKER answered it's used when the individual is completely off probation/parole and therefore no longer under supervision.

CHAIR THERRIault asked if it's correct that parole/probation can't be extended beyond the term of the original sentence. Unless a new crime is committed, the individual would get just one letter. Under SB 26 an individual could receive multiple letters.

MS PARKER said that's correct.

SENATOR DAVIS suggested the wheels of progress don't move that fast and the person who violates probation/parole within 12 hours probably wouldn't have received the letter yet. Nonetheless, "That's something that could be worked through. I have no problem with that. That still doesn't say they should not have that right simply because we have to come up with some way to make it work."

MS. PARKER responded she is just addressing the fact that once released, the letter is sent to the Division of Elections. If the individual isn't registered to vote and doesn't register upon release it probably wouldn't create a lot of work for the

Division of Elections, but DOC would still need to give the individual the letter upon release.

SENATOR DAVIS said that would all be taken into consideration if the bill were to pass. It's premature for DOC to say how it would work at this point.

MS. PARKER said it could be worked out that a letter wouldn't be provided at all; she was just explaining what is done currently.

CHAIR THERRIAULT said, "At the very least, Senator Davis, we need to work with the drafters on the definition of the word "incarcerated."

SENATOR DAVIS said she had no problem with that.

CHAIR THERRIAULT announced he was closing the hearing on SSSB 26. The bill was held in committee.

HJR 8-SUPPORTING ALASKA ARMY NATL. GUARD

CHAIR THERRIAULT announced HJR 8 to be up for consideration.

[5:46:38 PM](#)

TERRY HARVEY, Legislative Aide to Representative Bruce Weyhrauch, presented HJR 8, which recognizes and offers support to the active members of the Army National Guard that are currently deployed worldwide. The language in the resolution is inclusive and it also recognizes members who have returned and those who are preparing to deploy. He noted that the number of deployments is at a record high and more are pending.

The resolution received unanimous support in the House and he asked the State Affairs Committee to extend its support as well.

[5:48:10 PM](#)

LIEUTENANT COLONEL MIKE BRIDGES, Alaska National Guard, spoke via teleconference to say that he provided the background information for the resolution and he was available for questions.

[5:49:11 PM](#)

SENATOR DAVIS stated this is a good resolution and the committee should move it out.

CHAIR THERRIAULT asked if she would like to make a motion.

SENATOR DAVIS motioned to report HJR 8 and attached fiscal zero note(s) from committee with unanimous consent.

CHAIR THERRIAULT announced SJR 8 passed from committee with unanimous support.

There being no further business to come before the committee, Chair Therriault adjourned the meeting at [5:49:57 PM](#)