

HOUSE FINANCE COMMITTEE  
January 30, 2008  
1:39 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:39:50 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Harry Crawford  
Representative Les Gara  
Representative Mike Hawker  
Representative Mike Kelly  
Representative Mary Nelson  
Representative Bill Thomas Jr.

MEMBERS ABSENT

Representative Reggie Joule  
Representative Richard Foster

ALSO PRESENT

Representative Mike Doogan; Mike Sica, Staff, Representative Bob Lynn; Pat Davidson, Legislative Auditor, Legislative Audit Division, Legislative Affairs Agency; Nicki Neal, Director, Division of Personnel, Department of Administration; Debbie Richter, Director, Permanent Fund Division, Department of Revenue; Mike Stark, Vice Chair, Alaska Board of Parole; Dwayne Peoples, Deputy Commissioner, Department of Corrections; Demian Schane, Self, Juneau; Emily Ferry, Self, Juneau

PRESENT VIA TELECONFERENCE

Robb Kulin, Student, University of San Diego; Kathy Matsumoto, Executive Director, Alaska Board of Parole, Anchorage; Ed Rais, Chair, Alaska Board of Parole, Anchorage

SUMMARY

HB 260      An Act relating to a State Officers Compensation Commission and establishing how legislators, the governor, the lieutenant governor, and executive department heads shall be compensated; providing for an effective date by repealing the effective dates of certain sections of ch. 124, SLA 1986; and providing for an effective date.

CS HB 260 (STA) was reported out of Committee with a "no recommendation" and with fiscal note #1 by the Department of Administration.

HB 284 An Act relating to participation in certain student fellowships as an allowable absence from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date.

CS HB 284 (FIN) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Revenue.

HB 296 An Act extending the termination date of the Board of Parole; and providing for an effective date.

HB 296 was reported out Committee with a "do pass" recommendation and a new fiscal note by the House Finance Committee.

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#HB284

HOUSE BILL NO. 284

An Act relating to participation in certain student fellowships as an allowable absence from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date.

REPRESENTATIVE MIKE HAWKER, SPONSOR, explained that HB 284 would correct an inequity in the statutes regarding allowable absences for Permanent Fund Dividends (PFD). Current law provides for an allowable absence for students who are "receiving vocational, professional, or other specific education on a full-time basis for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the State." He pointed out that for some reason, the above statutory language has been interpreted by regulation to exclude students who are participating in an international educational exchange under a U.S. Fulbright Scholarship.

Representative Hawker continued, the Fulbright Scholar Program, which was signed into law by President Truman in 1946, is sponsored by the United States Department of State, Bureau of Educational and Cultural Affairs. Each year, the program sends 800 scholars and professionals, chosen for their academic merit and leadership potential to more than 150 countries, where they lecture or conduct research in a wide variety of fields. Those chosen for the Fulbright program represent Alaska and the United States in foreign

countries all over the world. Grants are typically for three months to one year.

Representative Hawker urged the Committee's support of the bill to correct the inequity in current law.

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DEMAIN SCHANE, SELF, JUNEAU, testified in support of the bill. He indicated he currently works for the National Oceanic & Atmospheric Administration in Juneau. He pointed out that the proposed amendment adds one more excusable absence, which he thought worthy. Mr. Schane noted he had spent 10 months in Iceland on a U.S. Fulbright grant, studying the European Union's mechanism for regulating escapes from farm fishing operations.

Mr. Schane continued, the Fulbright Program is funded through the U.S. Department of State and promotes a cultural and educational exchange program in numerous foreign countries. The program offers U.S. citizens an opportunity to further their understanding of issues and policies of international significance and experience and how other cultures endeavor to resolve the issues. He urged that the Legislature recognize and support Alaskans' efforts to pursue those opportunities by allowing them to do so without losing their residential status and eligibility for a PFD dividend disbursement.

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EMILY FERRY, SELF, JUNEAU, echoed sentiments of the previous testifier, voicing support for adoption of the legislation & the amendment. She stated that she and her husband had the intent to return to the State and indeed did return to start their family. She reiterated her support that Amendment 1 be passed as it makes the dividend retroactive.

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ROBB KULIN, (TESTIFIED VIA TELECONFERENCE), STUDENT, UNIVERSITY OF SAN DIEGO, testified in support of the proposed legislation and the attached amendment. He pointed out he currently is in a doctorate program at the University of California and prior to that, he had participated in 2004 in the Fulbright scholar program. He reiterated his support

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PUBLIC TESTIMONY CLOSED.

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Co-Chair Meyer asked the number of students that would be eligible recipients. Representative Hawker understood that for Alaskans, it would be less than ten per year and that only three were affected in the last two years.

Vice-Chair Stoltze recalled that one of his constituents had been a recipient of the Fulbright scholarship.

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Representative Gara noted support for the legislation, however, pointed out other exceptions of concern to the receipt of the PFD, including the Peace Corp and Ameri-Corp [National Peace Corp] volunteers.

Representative Hawker observed that volunteers in the Peace Corp are included, indicated in language on Page 2, Line 27. Representative Gara reiterated that Ameri-Corp participants should also be included. Representative Hawker responded that issue had not yet been addressed.

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Representative Hawker MOVED to ADOPT Amendment 1, #25-LS1142\A.1, Cook, 1/24/08. (Copy on File). Co-Chair Meyer OBJECTED for discussion purposes.

Representative Hawker explained the amendment. When the bill was originally drafted, an effective date of January 1, 2009, was included for the prospective application. He had spoken with Legislative Legal regarding persons in the past two years and their efforts to get the regulation changed. Legislative Legal proposed the language of the amendment to address the concern. He believed that the proposed language "rights a wrong".

Representative Gara revisited the retroactive issue. He explained that the Courts normally interpret retroactive language such that, they have concerns retroactively removing rights. No one can change criminal law retroactively and that important legal rights can not be taken away.

Co-Chair Meyer asked how an amount could be determined if the number of students is not known; he questioned where the dollars would come from. Representative Hawker admitted that the State does not have an accurate account of the number of students that would be involved. He believed the diluting effect would be insignificant to the PFD. He was certain it would be a small number of students affected.

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The funds would be taken from the earning reserve of the Permanent Fund.

Representative Thomas commented on the retroactive provision and the relationship to other applicants. Representative Hawker understood that there are statutory requirements clarifying application dates. If the student anticipates a dividend, they must submit an application indicating intent to return and remain in Alaska. Otherwise, they would not qualify.

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Co-Chair Meyer referenced testimony from Mr. Kulin, in San Diego. Representative Hawker responded that Mr. Kulin fully intends to return to Alaska to practice his profession.

Representative Kelly asked if the student would be required to return to Alaska in order to receive the dividend. Representative Hawker deferred that response to the Department of Revenue. At present time, the language specifies only the intent to return.

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DEBBIE RICHTER, DIRECTOR, PERMANENT FUND DIVIDEND DIVISION, DEPARTMENT OF REVENUE, explained that the funds from which the dividends would be paid, are funds held back each year. The money is there; the Division does not anticipate a large number of requests.

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Representative Kelly reiterated his question, whether, the student would be required to return to Alaska in order to actually receive the PFD. Ms. Richter explained currently, the dividends are paid when the application is received; students who are out of State, fill out a form from the school, indicating enrollment. Those students certify with the application that they intent to return to Alaska. She acknowledged that "intent" is a difficult matter to determine. With regard to the amendment, the Division most likely has those applications on file, since they were originally denied.

Representative Kelly worried about the growing number of applications. He suggested that students actually be required to return to the State before receiving the dividend. Ms. Richter was not aware of a requirement ever written into the language, stipulating that students actually return before receiving their dividend. Representative Hawker mentioned escrowing dividends until the student returns. He provided a brief history of such an

occurrence. He believed that as a policy call, there would be merits to having that discussion.

Representative Kelly addressed the idea of retroactive claims. Ms. Richter had no previous history with those circumstances.

Representative Hawker explained his motive, stating if there was a new policy change, it should be prospectively applied. He believed that the exception in the statutory language, should not have applied to the Fulbright scholars since it does not apply to post secondary students. In the specific case at hand, the retroactively language provides dividends to that class of student. He believed that the amendment clarifies the original intent.

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Representative Kelly questioned how the determination of the length of the retroactivity was made; he inquired the number of applicants expected. He agreed anyone having received the Fulbright scholarship should be eligible. Representative Hawker explained that his office had discussions with some of the students and then decided to prepare the legislation. He offered to entertain an amendment to Amendment 1. Representative Kelly thought that having the language on record, would clarify intent.

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Representative Gara proposed inclusion of a memorandum from the Legislative Legal Services. He believed if Section 2 was retroactive, it would provide for every allowable absence. He did not think that was the intention of the bill's sponsor. He recommended making Section 1 retroactive rather than Section 2. Representative Hawker pointed out that Amendment 1 had been drafted by Tam Cook, Attorney and Director of Legislative Legal. He added that he would request a reply to the amendment by Ms. Cook for Representative Gara.

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Co-Chair Chenault mentioned the numerous PFD issues that had come to his office, while indicating his appreciation to the Division for their willingness and work on the concerns.

In response to issues suggested by Representative Gara, Representative Hawker stated it would be effective only if exceptions were indicated in items 1-16 and had been put into place after January 1, 2005. The two affected would be Peace Corp and the Olympic Teams. Representative Gara understood that it would also apply to Lines 1-14. He reiterated that everything in Section 2 would become

retroactive. Representative Hawker agreed that was accurate but would have no consequence because items 1-14 have been in place since before 2005, when the retroactivity would apply. Co-Chair Meyer recommended a letter from Ms. Cook would satisfy Representative Gara's concerns.

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Co-Chair Meyer WITHDREW his OBJECTION to Amendment 1. There being NO further OBJECTION, Amendment 1 was adopted.

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Representative Thomas commented on members of the National Guard being sent to Iraq and denial of their PFD applications when submitted late. He asked the number of National Guard members who have received denials. Additionally, he worried about the elders, who suffer from Alzheimer's and forget to file.

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Vice-Chair Stoltze MOVED to REPORT CS HB 284 (FIN) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 284 (FIN) was reported out of Committee with a "do pass" recommendation and with zero note #1 by the Department of Revenue.

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[#HB296](#)

[HOUSE BILL NO. 296](#)

An Act extending the termination date of the Board of Parole; and providing for an effective date.

MIKE SICA, STAFF, REPRESENTATIVE BOB LYNN, explained that HB 296 would extend the termination date of the Board of Parole until June 30, 2016.

The Board of parole serves as the parole authority for the State. As such, the Board fulfills the Alaska Constitution requirement that the State establish a parole system. The Board's primary responsibilities include determining a prisoner's suitability for discretionary parole and setting conditions for individuals receiving parole. Another major responsibility of the Board is offering parole revocation hearings. The Legislative Audit Division recently concluded, there is a demonstrated need for the Board of Parole and that the terminated date be extended until June 30, 2016. He urged support of the bill.

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Representative Gara suggested that since there was no controversy on the bill, the Committee should pass it out. Co-Chair Meyer responded that the Committee would hear public testimony.

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MIKE STARK, VICE CHAIR, ALASKA BOARD OF PAROLE, introduced Dwayne Peeples, Deputy Commissioner, Department of Corrections. Mr. Stark pointed out that the Alaska Constitution calls for a parole system. Legislative implementation of that has been through the creation of a Parole Board. The Parole Board is the most active board or commission in the State. There are five members on the board, which works more than 180 days per year to address risk and release issues and provide protection of the public. He urged that the Board sunset be extended.

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KATHY MATSUMOTO, (TESTIFIED VIA TELECONFERENCE), EXECUTIVE DIRECTOR, ALASKA BOARD OF PAROLE, ANCHORAGE, spoke in support of the legislation. She emphasized that the Parole Board provides a valuable service to the citizens of Alaska and work closely with the Department of Corrections. She highlighted the roll of the Board in performing basic information gathering to help prisoners as they move out of the system. She pointed out recommendations for treatment programs to help address recidivism. She indicated the Board's support of the requests made by the Department of Corrections to fund treatment programs for offenders.

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ED RAIS, (TESTIFIED VIA TELECONFERENCE), CHAIR, ALASKA BOARD OF PAROLE, ANCHORAGE, testified in support for the extension of the Parole Board. He spoke to the key challenges of the Board based on the number of people coming out of prison. Discretionary hearings are driven by statute. Mr. Rais urged passage of the sunset audit, reiterating that the work of the Parole Board is extensive.

Mr. Rais discussed the diligence of the Board to insure public safety. He hoped in the future, the Board would be able to evaluate & implement statistics for information to increase appropriations and be funded like other nationwide parole boards. He indicated that re-entry programs are important aspects for the future, especially in programs for substance abuse & sex offender treatment. Currently, there are 2.3 million people incarcerated throughout the U.S.

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PUBLIC TESTIMONY CLOSED.

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Vice-Chair Stoltze asked if parole had been addressed in the Alaska Constitution. He indicated his support for passage of the bill.

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Representative Kelly expounded that the average member of the public does not see the accomplishments of the Board but rather the failures of the Board when something bad happens by a parolee. He inquired if there had been an audit determination to measure how well the Board is doing.

PAT DAVIDSON, LEGISLATIVE AUDITOR, LEGISLATIVE AUDIT DIVISION, LEGISLATIVE AFFAIRS AGENCY, advised that during the course of the audit, the Division evaluated the effectiveness of the discretionary parole decisions made by the Board. The Board takes a risk-based approach. The number of potential parolees with the lowest risk is given the highest rate of paroles. That group will have the lowest rate of the parole revoked, compared to the other end of the spectrum, having the highest risk group of individuals with only a 24% granted parole. Revocation is at about 43%. During the course of the audit, parole revocation was used as the measure of effectiveness for the Board's decision making. She maintained that the risk assessment model is working.

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Representative Kelly addressed audit recommendations for public meetings with the parolees. He worried that revocation of parole is different from someone being injured and he wanted to determine a way to keep track of the number of felons. Ms. Davidson replied that would not be possible. She suggested that by providing more opportunities for the general public by holding public meetings could help to develop missions and measures, putting the information and annual reports in place. The audit attempted to compare discretionary parole rates against offenders who did not get parole but were released from jail. There was not enough data to make the comparison.

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Representative Kelly requested criteria measuring how well the job was being done. In the current system, victims are not protected; he thought that public meetings could help measure how well the Board is actually doing their work.

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Vice-Chair Stoltze asked if the Office of Victim's Rights had been contacted before the audit was done to help determine certain aspects. Ms. Davidson said yes that office had been included as well as the victim notification process. Previously, the process included only the Board of Parole, however, a division within the Department of Corrections has taken up the issues. Legislative Audit has recommended that the Department provide a formal communication system between those organizations to insure that victim notification does occur.

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Vice-Chair Stoltze recommended that the Ombudsman Office also be included.

Co-Chair Meyer pointed out a new fiscal note dated 1/30/08, indicating the funding in the Governor's proposed FY09 budget.

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Vice-Chair Stoltze MOVED to REPORT HB 296 out of Committee with individual recommendations and with the accompanying new fiscal note. There being NO OBJECTION, it was so ordered.

HB 296 was reported out Committee with a "do pass" recommendation and a new fiscal note by the House Finance Committee.

#HB260

HOUSE BILL NO. 260

An Act relating to a State Officers Compensation Commission and establishing how legislators, the governor, the lieutenant governor, and executive department heads shall be compensated; providing for an effective date by repealing the effective dates of certain sections of ch. 124, SLA 1986; and providing for an effective date.

REPRESENTATIVE MIKE DOOGAN, SPONSOR, spoke in support of HB 260, based on the only successful salary commission in the State of Alaska. The Commission was active in 1977 & 1979, when citizen members of the Alaska Salary Commission released reports on how much certain public officials should be paid. The original Commission had a broader scope than the one presented in HB 260.

Since 1979, there has not been a comprehensive look at compensation of members above a certain level. HB 260 would

establish a compensation commission consisting of five members appointed by the Governor. Former legislators would be prevented from serving on the commission until they had been out of office for four years. Members would serve staggered terms and would be assigned to reconsider compensation every two years.

Representative Doogan explained that the decisions of the Commission would become law unless specifically disapproved by the legislature within 60-days of receipt. The effective date of the actions would be tied to the legislature appropriating funds.

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Representative Doogan pointed out that in the House State Affairs (STA) Committee, Representative Coghill voiced confusion if the vehicle for enacting the findings should be a resolution or a bill. He pointed out the memo from Legal Services explaining the decision to place it in bill form.

Vice-Chair Stoltze questioned if the task of the Commission would be similar to that of the task force recommendation for passing gambling. Representative Doogan thought if the issue was left to legislators, there would never be consideration for fear of constituent disapproval. In the past, it was determined that a citizen commission could work.

Vice-Chair Stoltze informed that the Gaming Commission had attempted to insulate members from the political pressures. Representative Doogan responded that legislators are never insulted from political pressures; however, the bill attempts to provide an "even-handed" look at the process. It is political at every stage of the process. Co-Chair Meyer said that the Anchorage Assembly does use a Commission as proposed and that it works well.

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Representative Hawker addressed the philosophical component of the legislation. Previous testimony indicates that there had been intent, resulting in action to raise the salaries of the Legislature. He wondered if the legislature should be a choice for public service without receiving compensation, acting more like a volunteer service. Representative Doogan stated the bill was not proposing a plan to do anything particular with legislative salaries but rather proposes creating a commission of citizens to look at the question in a more even way. There are a number of ideas the commission could determine such as a system paying for longevity of members. He emphasized his intent in sponsoring the legislation is to create a discussion and reviewing arena.

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Representative Hawker understood that the intent of the legislation was to increase legislative compensation. He asked if that was true.

Representative Doogan explained that in order to have a legislature reflecting the population's age balance, the State would have to offer higher compensation. He pointed out that legislators in their 50's & 60's are overrepresented and that those in their 20's & 30's are not adequately represented. He discussed that if salaries are increased, there would be a change in the age and make-up of the legislature.

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Representative Hawker commented if that was the intent or if rather more of an exploratory outcome. Representative Doogan believed the discussion is about what might happen through passage of the legislation.

Representative Hawker referred to Page 5, regarding a recommendation that the Commission "may not" have the effect of reducing compensation or benefits of someone who is in office; he asked if that would apply to legislative salaries. Representative Doogan advised that he had attempted to keep the Legislature out of the bill as much as possible.

Representative Hawker referenced Line 17, Page 5, the "policy of legislature that the commission recommends an equitable rate for legislators." He asked what "equitable" meant. Representative Doogan replied the definition was not attempting to determine compensation. Representative Hawker suggested it should be equal treatment under the law. Representative Doogan said yes. Representative Hawker advised that the language is stating exactly what it is intended.

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In response to a query by Representative Gara, Representative Doogan expected that if the bill were to pass that there would be compensation determined by longevity of legislators.

Co-Chair Meyer clarified if the intent of the Commission was to look at how other States handle the issue. Representative Doogan informed that the handout addresses other state's policies and procedures.

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Representative Nelson made clear that to offer no compensation for the legislative positions would be a disincentive to people considering whether to run for office or not. She thought that there would be a disproportionate number of wealthy and retired people holding office. She hoped to encourage more variety of candidates to step forward. She thought that the 90 day session makes it more appealing, providing more time for other employment. She mentioned that the legislation to move the capital was also being put forward as an opportunity for better public participation while serving in the Legislature. She stated she did not support that legislation.

Representative Nelson reiterated that it is wrong to have more rich and retired people doing the work for the State and that it is better for the legislative body to have more variety in who serves. Representative Doogan wholeheartedly agreed. He added that many people are kept from public office because of their obligations in life versus the compensation offered.

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Representative Thomas commented on his determination to run for public office and the losses incurred personally because of the number of special sessions, affecting his livelihood. He noted that it actually him approximately \$70 to \$80 thousand dollars per year. He hoped the process would be better controlled through a public commission.

Co-Chair Meyer agreed that it is out of the hands of the legislators. He noted in California, legislators are salaried at \$110 thousand dollars per year but that they are not allowed to hold any other job.

Vice-Chair Stoltze agreed that the ideas presented have been intriguing. The founders of the Constitution did not establish criteria for legislator's salaries.

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NICKI NEAL, DIRECTOR, DIVISION OF PERSONNEL, DEPARTMENT OF ADMINISTRATION, offered to answer questions of the Committee.

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PUBLIC TESTIMONY CLOSED.

Representative Kelly believed that there is no easy solution to the issue of a citizen versus professional legislature. He personally leaned toward a citizen's legislature. He remembered a previous salary proposal of \$94 thousand

dollars per year. He encouraged the natural & healthy tension remains in place. He believed that moving toward a higher salary, determines a decision to have a professional legislature in place. He hoped that whichever decision was made, it would work well & fluid.

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Co-Chair Meyer agreed that the current system is working. He hoped that when the Commission does looks at other states of a similar size & issues, they would be able to determine that Alaska does not offer or need a full time job.

Representative Crawford acknowledged there is no accounting for who the public chooses to represent them. He agreed that the compensation issues should be determined from non legislative persons. He indicated his support for the legislation.

Representative Hawker voiced confusion on the issue, which raises philosophical concerns on both sides of the argument. If the desired outcome is to increase legislative salaries, the legislation is the way to accomplish that; however, handing the responsibility off to a public Commission could provide too much legislative authority to that group. He recommended it be discussed through the legislative process. He noted that the recommendations of the Commission could take the effect of law unless a bill is introduced and objection made by the Legislature. Representative Doogen understood that the recommendations would be a bill, which would have to be disapproved by the Legislature within 60-days.

Representative Hawker stated that was not clear in the bill. Representative Doogan agreed. He added that the central fact is that if the Commission determines a higher salary, the effective date of that recommendation would be when the appropriation passes. The dollars would not be available until an appropriation passes. Ultimately, it is the Legislature's responsibility to fund it.

Representative Hawker stated it is "complex effectiveness" and thought that as a Commission, they should make recommendations so that the elected policy body can make the decision.

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Representative Doogan said that had been discussed. He believed it puts it back in the hands of the legislature and then they would determine the need to pass or not pass the bill.

Representative Nelson commented that the current method used is that of the federal rate of per diem. Whenever that

amount is increased, the press broadcasts it; however, when it decreases, it is never publicized. She agreed with Representative Doogan and doubted if the issue would ever be addressed up by the Legislature. She remembered when the per diem actually increased and how that affected the public's perspective. She maintained that the present pay rate for legislators is good and that compared to jobs in most districts, it pays well.

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Representative Thomas assumed that the bill intended to keep a citizen's legislature. Representative Doogan responded that the idea was not to debate whether it would remain a citizen's legislature.

Representative Thomas added that if the public does not think their legislator is doing a good job, they will not re-elect them.

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Co-Chair Meyer noted the back-up materials indicating how other states determine compensation, pointing out that most do have a commission. He reiterated that he had been involved in a similar system when working on the Anchorage City Council and was comfortable with the approach proposed in the legislation.

Co-Chair Meyer referenced the fiscal note. Representative Doogan explained that the request in the amount of \$7.5 thousand dollars would cover travel and per diem costs; the salary is zero.

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Vice-Chair Stoltze MOVED to REPORT CS HB 260 (STA) out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CS HB 260 (STA) was reported out of Committee with a "no recommendation" and with fiscal note #1 by the Department of Administration.

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#### ADJOURNMENT

The meeting was adjourned at 3:27 P.M.