

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 15, 2010

1:10 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative Carl Gatto
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Bob Herron

OTHER LEGISLATORS PRESENT

Representative Beth Kerttula

COMMITTEE CALENDAR

HOUSE BILL NO. 71

"An Act relating to a registry for advance health care directives."

- MOVED CSHB 71(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 381

"An Act relating to self defense."

- HEARD & HELD

HOUSE BILL NO. 355

"An Act relating to criminal fines for organizations."

- MOVED CSHB 355(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 115

"An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date."

- FAILED TO MOVE OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 71

SHORT TITLE: ADVANCE HEALTH CARE DIRECTIVES REGISTRY

SPONSOR(S): REPRESENTATIVE(S) HOLMES, DAHLSTROM, MILLETT,
KAWASAKI

01/20/09 (H) PREFILE RELEASED 1/16/09
01/20/09 (H) READ THE FIRST TIME - REFERRALS
01/20/09 (H) HSS, JUD
03/31/09 (H) HSS AT 3:00 PM CAPITOL 106
03/31/09 (H) Heard & Held
03/31/09 (H) MINUTE(HSS)
04/14/09 (H) HSS AT 3:00 PM CAPITOL 106
04/14/09 (H) Moved CSHB 71(HSS) Out of Committee
04/14/09 (H) MINUTE(HSS)
04/15/09 (H) HSS RPT CS(HSS) 3DP 3NR
04/15/09 (H) DP: HOLMES, SEATON, CISSNA
04/15/09 (H) NR: LYNN, KELLER, HERRON
02/19/10 (H) JUD AT 1:00 PM CAPITOL 120
02/19/10 (H) -- MEETING CANCELED --
02/24/10 (H) JUD AT 1:00 PM CAPITOL 120
02/24/10 (H) Heard & Held
02/24/10 (H) MINUTE(JUD)
03/08/10 (H) JUD AT 1:30 PM CAPITOL 120
03/08/10 (H) Moved CSHB 71(JUD) Out of Committee
03/08/10 (H) MINUTE(JUD)
03/15/10 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 381

SHORT TITLE: SELF DEFENSE

SPONSOR(S): REPRESENTATIVE(S) NEUMAN

02/23/10 (H) READ THE FIRST TIME - REFERRALS
02/23/10 (H) JUD, FIN
03/15/10 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 355

SHORT TITLE: CRIMINAL FINES FOR ORGANIZATIONS

SPONSOR(S): REPRESENTATIVE(S) GRUENBERG

02/19/10 (H) READ THE FIRST TIME - REFERRALS
02/19/10 (H) JUD, FIN
03/10/10 (H) JUD AT 1:00 PM CAPITOL 120
03/10/10 (H) Heard & Held
03/10/10 (H) MINUTE(JUD)
03/11/10 (H) JUD AT 1:00 PM CAPITOL 120
03/11/10 (H) Heard & Held

03/11/10 (H) MINUTE(JUD)
03/15/10 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 115

SHORT TITLE: PERMANENT ABSENTEE VOTING

SPONSOR(S): REPRESENTATIVE(S) BUCH

02/04/09 (H) READ THE FIRST TIME - REFERRALS
02/04/09 (H) STA, FIN
03/17/09 (H) STA AT 8:00 AM CAPITOL 106
03/17/09 (H) Heard & Held
03/17/09 (H) MINUTE(STA)
02/18/10 (H) STA AT 8:00 AM CAPITOL 106
02/18/10 (H) Moved CSHB 115(STA) Out of Committee
02/18/10 (H) MINUTE(STA)
02/19/10 (H) JUD REFERRAL ADDED AFTER STA
02/23/10 (H) STA RPT CS(STA) 3DP 2NR
02/23/10 (H) DP: SEATON, GRUENBERG, PETERSEN
02/23/10 (H) NR: P.WILSON, LYNN
03/10/10 (H) JUD AT 1:00 PM CAPITOL 120
03/10/10 (H) Heard & Held
03/10/10 (H) MINUTE(JUD)
03/15/10 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE MARK NEUMAN

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 381.

JIM ELLIS, Staff

Representative Mark Neuman

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 381 on behalf of the sponsor,
Representative Neuman.

BRIAN JUDY, Alaska Liaison

National Rifle Association (NRA)

Sacramento, California

POSITION STATEMENT: Urged support for HB 381.

ANNE CARPENETI, Assistant Attorney General

Legal Services Section

Criminal Division

Department of Law

Juneau, Alaska

POSITION STATEMENT: Expressed concerns with HB 381.

GRETCHEN STAFT, Staff
Representative Max Gruenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented information regarding HB 355.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Related support for HB 355.

REPRESENTATIVE BOB BUCH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the prime sponsor of HB 115.

GAIL FENUMIAI, Director
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 115, answered questions.

ACTION NARRATIVE

[1:10:49 PM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:10 p.m. Representatives Ramras, Holmes, Dahlstrom, Gatto, and Gruenberg were present at the call to order. Representative Lynn arrived as the meeting was in progress. Representative Herron was excused. Representative Kerttula was also in attendance.

HB 71 - ADVANCE HEALTH CARE DIRECTIVES REGISTRY

[1:10:59 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 71, "An Act relating to a registry for advance health care directives." [The proposed committee substitute

(CS) for HB 71, Version 26-LS0289\T, Kurtz/Bannister, 1/21/10, had been reported from committee on 3/8/10.]

[1:11:11 PM](#)

REPRESENTATIVE DAHLSTROM moved that the committee rescind its action in reporting the committee substitute (CS) for HB 71, Version 26-LS0289\T, Kurtz/Bannister, 1/21/10, from committee. There being no objection, it was so ordered, and Version T was before the committee.

REPRESENTATIVE HOLMES, speaking as one of the joint prime sponsors of HB 71, indicated that she and the other joint prime sponsors have been working with the Department of Health and Social Services (DHSS) to address members' concerns regarding the fiscal note and they would continue doing so as the bill continues moving through the process. She noted that at this point, HB 71 will continue to have a fiscal note and thus a House Finance Committee referral. Therefore, she requested that the legislation be reported from committee again while she continues to work with the other joint prime sponsors, Representative Ramras, and DHSS to address the fiscal note issues prior to the House Finance Committee hearing.

CHAIR RAMRAS, in response to a question, indicated that at this time, he would not be reoffering Amendment 1.

REPRESENTATIVE GRUENBERG recollected that Amendment 1 - which failed to be adopted on 3/8/10 - would have replaced the word "may", on page 3, line 3, with the word "shall".

[1:14:34 PM](#)

REPRESENTATIVE DAHLSTROM moved to report the CS for HB 71, Version 26-LS0289\T, Kurtz/Bannister, 1/21/10, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 71(JUD) was again reported from the House Judiciary Standing Committee.

The committee took an at-ease from 1:15 p.m. to 1:17 p.m.

HB 381 - SELF DEFENSE

[1:17:12 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 381, "An Act relating to self defense."

1:17:55 PM

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, sponsor, explained that HB 381 came about because of a concern from the National Rifle Association (NRA) that some of Alaska's laws may not protect Alaskans' rights. He offered his understanding that the Department of Law (DOL) has suggestions as to areas of the law needing to be reviewed. He requested that the legislation not be moved today in order that all involved can craft appropriate legislation.

1:20:21 PM

JIM ELLIS, Staff, Representative Mark Neuman, Alaska State Legislature, on behalf of the sponsor, Representative Neuman, explained that the sponsor had received some concern from constituents and the NRA with regard to existing state law that specifies an individual has a duty to retreat when he/she knows it can be achieved with complete personal safety to the individual and others. The concern, he specified, is that an individual who is under the severe stress of a self-defense situation has to make a decision as to how a court or jury [would view their actions of self defense]. The sponsor views the aforementioned as an undue burden on a law-abiding citizen and believes the best way to address the situation is the proposed provision specifying that the individual doesn't have a duty to retreat, which would also serve as a deterrent to criminals. There are guidelines, he noted, in terms of the crimes [to which the provision applies]. The sponsor feels that Alaskans have used the current law responsibly and expansion of it should be considered. Mr. Ellis explained that the legislation also intends to extend that an individual doesn't have a duty to retreat when an individual uses deadly force in the burglary of his/her home, but there would need to be proof that the use of force was reasonable. This would also be the case with carjacking of an occupied vehicle. He acknowledged that the legislation may need to be amended to better reflect the aforementioned intent.

1:24:55 PM

REPRESENTATIVE NEUMAN added that he wants to clarify that if an individual arrives at his/her home or awakes at his/her home to another individual in the home, the individual [homeowner] should be able to assume that individual could cause harm to the individual or his or her family. The individual should have the

full rights to protect oneself as deemed necessary. He reminded the committee of the situation in which a church in Big Lake had been robbed multiple times. The church had alarms and motion sensors that [alerted] the minister [of a potential robbery]. The minister, pistol in hand, went to the church and encountered the armed perpetrators who he shot. The minister went to court to defend his actions. Representative Neuman opined that Alaskans should have the right to protect themselves and their family without having to rely on a jury to determine whether the individual could've escaped or fled the area.

1:27:15 PM

REPRESENTATIVE LYNN surmised that under HB 381 he wouldn't have to be in fear of his life or that of anyone else in the home in order to use deadly force against an individual who has invaded his home.

REPRESENTATIVE NEUMAN said if he found someone in his home, he would assume that the intruder was going to cause harm to himself or his family. [Alaskans] should be able to protect their homes and properties.

REPRESENTATIVE LYNN asked whether he would have to meet the "fear" requirement prior to using deadly force. Representative Lynn recounted a situation in which he was attending a potluck, during which he went to his car to retrieve something. Upon returning to the potluck, he inadvertently entered the wrong house. In that situation, he asked whether the individual in the wrong house could have used deadly force, under HB 381.

MR. ELLIS clarified that his understanding is that HB 381 would apply in the case of burglary, which entails "breaking and entry." He related his further understanding that if the door is open, it would be a different case.

REPRESENTATIVE LYNN expressed the need to address the aforementioned [situation].

1:29:58 PM

REPRESENTATIVE GATTO posed a situation in which a homeowner sleeping upstairs hears a noise downstairs. The homeowner retrieves his/her gun and proceeds downstairs to investigate. At the instant the burglar sees the homeowner, the burglar exits the home at which time the homeowner shoots the burglar in the

back. He asked if the aforementioned action would be justifiable.

[Chair Ramras passed the gavel to Vice Chair Dahlstrom.]

[1:30:43 PM](#)

MR. ELLIS answered, "Our intent is not necessarily that if they're fleeing, escaping you, ... but we do not want to necessarily second judge the actions of a person within their own home." He noted that in the dark of night it may not always be clear whether an intruder is fleeing or reaching for a weapon.

REPRESENTATIVE GATTO remarked that he foresaw many special cases. He questioned whether a vehicle, a public park, a sidewalk, or any other place an individual has a right to be would be considered an extension of an individual's home. He related that he is uncomfortable with allowing it to be sufficient for an individual who feels threatened in a place he/she has a right to be to shoot. He opined that there are unintended consequences to this extension [or rights]. He asked if it's not intending to harm others in the process of an individual protecting himself/herself could be used as a defense.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

[1:33:26 PM](#)

REPRESENTATIVE NEUMAN replied that the aforementioned isn't a defense and the legislation doesn't try to make it a defense. The legislation merely attempts to provide more clarity on this issue. He again relayed that DOL has indicated there is room for improvement with this legislation.

CHAIR RAMRAS reminded the committee that the sponsor wants to bring forward the legislation for discussion regarding how to improve it.

[1:34:57 PM](#)

REPRESENTATIVE GRUENBERG referred to page 2, line 27, and suggested that the language be reviewed because he said he has never viewed language specifying that a type of evidence doesn't apply. He further suggested that it's possibly a typographical error.

MR. ELLIS agreed to research that point further.

1:36:07 PM

BRIAN JUDY, Alaska Liaison, National Rifle Association (NRA), characterized HB 381 as simple legislation that provides protection and assurance that an individual doesn't have to retreat when he/she is lawfully in a place and feels threatened. Existing Alaska law already specifies that an individual has no duty to retreat if an individual is "on premises which the person owns or where the person resides or in a building where the person works." From NRA's perspective, the primary component of HB 381 would extend that no duty to retreat to the individual's vehicle as well as any place where an individual has a legal right to be. Mr. Judy pointed out that under the proposed language of HB 381, in a situation in which an individual is walking down the street and a rapist tries to drag the individual in the alley or a kidnapper tries to drag an individual into his/her car, the individual has no duty to retreat. Furthermore, if the individual so chooses, he/she can fight back with force. He characterized the aforementioned as common sense. Mr. Judy emphasized that law-abiding citizens shouldn't fear criminal prosecution when he/she stands his/her ground and defends himself/herself when at a place he/she has a legal right to be. In conclusion, Mr. Judy urged support for HB 381.

CHAIR RAMRAS noted that the committee packet includes a compelling letter from DOL regarding concerns with HB 381.

1:40:01 PM

ANNE CARPENETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, apologized for the late delivery of the letter and fiscal note. Ms. Carpeneti related that DOL is confused and concerned about HB 381, which DOL reads as contributing to violence in Alaska. Under current law, an individual only has the duty to retreat if the individual knows that he/she can retreat with complete safety to the individual and others. In response to Chair Ramras, Ms. Carpeneti said that she doesn't understand the problem being addressed by HB 381. She characterized the state's existing self-defense law as fairly strong. She pointed out that individuals don't have to retreat in a number of places, including one's home, vehicle, and place of business. However, if the law is changed to every place an individual has a right

to be, then it's every place unless an individual is trespassing or burglarizing a place. She expressed concern about removing the duty to retreat under those circumstances.

MS. CARPENENTI opined that Section 2, the prima facie evidence provisions, would encourage vigilantism because there is no time limit. For instance, an individual could use deadly force two hours after an individual burglarized his/her house rather than call the police. After discussions with the sponsor's staff, Ms. Carpeneti surmised that wasn't the intention. The department is also concerned by the arrest provisions because those provisions mean that a police officer can't make an arrest without making a complicated legal decision regarding whether the law of self defense would apply. For example, in a gang situation wouldn't it be best to get everyone off the street and then determine the details [with regard to whether self defense] applies.

MS. CARPENENTI, in response to Chair Ramras, specified that DOL had the following three primary concerns. Firstly, HB 381 deletes the requirement to retreat in Alaska, even when retreating can be done in complete safety and the individual knows that. Secondly, the provisions related to prima facie evidence are of concern. She explained that one must remember that the state, the prosecution, is required to disprove self defense beyond a reasonable doubt and the prima facie evidence considerations will make it that much harder to do so. The sponsor's concern, she related, was that a law-abiding person who didn't retreat would have to prove that he/she shouldn't have had to retreat. However, that's not the way it works; instead the state must disprove, beyond a reasonable doubt, that the law-abiding person didn't have a duty to retreat. Thirdly, the legislation specifies that a law enforcement official may not make an arrest until it's determined that self defense applies. The aforementioned is difficult to determine, even in the quiet of an office with the law and the facts. She opined that requiring this of law enforcement is asking too much, particularly since the situation is often one in which the police officer needs to stop the behavior, make an arrest, and then later decide who the charge should be appropriately levied against.

[1:46:00 PM](#)

MS. CARPENENTI, in regard to the sponsor's suggestion, said that she would be happy to work with the sponsor and Mr. Judy on this legislation.

1:46:24 PM

REPRESENTATIVE NEUMAN offered that people are being arrested after defending themselves. After being arrested, these individuals have to prove they didn't have a way to escape, which is often left to the jury to decide. Representative Neuman related that the goal with HB 381 is to not arrest individuals who have defended themselves.

CHAIR RAMRAS surmised then that the legislation attempts to address those situations in which an individual who felt he/she was being attacked and defended himself/herself ultimately ended up in trouble in court.

REPRESENTATIVE NEUMAN indicated that to be the case and reminded the committee of the earlier mentioned real situation of the minister in Big Lake.

REPRESENTATIVE GATTO agreed with Representative Neuman's earlier point that a fleeing individual may be doing so simply to reload.

1:50:07 PM

REPRESENTATIVE HOLMES offered her understanding that under current law, there would be no duty to retreat in a situation in which the individual believes the fleeing individual is merely moving to a location to reload. In such a situation, it would still be considered self defense.

MS. CARPENETI concurred. In response to an earlier question, Ms. Carpeneti stated that one doesn't have to be afraid under current law. Deadly force, so long as it's reasonable under the circumstances, can be used in one's own home to terminate a burglary. In response to Representative Gatto, Ms. Carpeneti reiterated that the state must disprove self defense beyond a reasonable doubt.

MR. JUDY acknowledged that it's a fine line in these situations. The notion that self defense must be disproved beyond a reasonable doubt is contrary to the fact that when the state is doing so, the individual who utilized self defense is in court. Furthermore, the individual has likely hired an attorney, been in prison for some time, and is a defendant in a court of law. The desire is to prevent the aforementioned. "We don't want a victim to be victimized a second time by the criminal justice

system," he opined. He mentioned that he would be happy to continue to be involved in a dialogue to define this fine line.

[1:53:49 PM](#)

REPRESENTATIVE GRUENBERG suggested the need to research the laws of other states on this matter.

REPRESENTATIVE DAHLSTROM noted her support of the sponsor's intent. She then inquired as to the outcome of the situation in which the minister encountered a burglary at his church.

REPRESENTATIVE NEUMAN answered that the minister was found innocent, but only after he expended a tremendous amount of money [in the case], was imprisoned for a time. Furthermore, it upset his family and his life.

[1:55:15 PM](#)

CHAIR RAMRAS encouraged DOL, Mr. Judy, and the sponsor to work on HB 381.

[HB 381 was held over.]

HB 355 - CRIMINAL FINES FOR ORGANIZATIONS

[1:56:54 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 355, "An Act relating to criminal fines for organizations."

[1:58:17 PM](#)

GRETCHEN STAFT, Staff, Representative Max Gruenberg, Alaska State Legislature, speaking on behalf of the sponsor, Representative Gruenberg, offered her understanding that DOL doesn't keep the data as part of its formal records. The document that notes it was "Distributed by Rep. Gruenberg" encompasses the information the department was able to compile. She related her understanding that many of the cases in which this statute would've been used were settled, and thus there isn't a lot of data for situations in which data was imposed. Ms. Staft pointed out that HB 355 would help set the bottom line for organizations faced with potential criminal penalties.

[1:59:31 PM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law, confirmed that DOL doesn't keep data collected in this form, and therefore the document in the committee packet is anecdotal recollections of prosecutors. Ms. Carpeneti informed the committee that the department doesn't prosecute corporations that often and corporations don't go to jail. When a corporation is charged with a crime, the fine and the amount of restitution is often negotiated. She related her understanding that the special prosecutions that allow three times the harm in certain circumstances are helpful, in terms of negotiating. In response to Chair Ramras, offered her understanding that the BP case when the field was depleted fell under statutes other than Title 12.

REPRESENTATIVE GRUENBERG recalled that the BP case fell under Title 46, environmental crimes. In further response to Chair Ramras, Representative Gruenberg said that the VECO case would've fallen under this and was the reason for the original legislation. The VECO situation wouldn't have allowed the treble damages because the tax bill passed and there was no gain to VECO or its clients and no loss to the state. That glitch in the law, he said, is what compelled him [to introduce HB 355]. The amendment was suggested in conversations with Mr. Sniffen, DOL.

[2:02:07 PM](#)

REPRESENTATIVE LYNN mentioned that there is legislation under consideration that requires certain disclosures. He asked if HB 355 would cover [corporations] that don't make those disclosures. He further asked if, under this legislation, those corporations could be fined for failure to disclose.

REPRESENTATIVE GRUENBERG replied yes, adding that it would be covered by Title 11.

[2:03:13 PM](#)

CHAIR RAMRAS characterized HB 355 as a very important bill.

[2:04:02 PM](#)

REPRESENTATIVE GATTO offered his understanding that in the past when fines have been doubled, not even half of the damages resulting have been received. He asked if HB 355 does more than simply increase the fines.

REPRESENTATIVE GRUENBERG referred to Amendment 1, labeled 26-LS1385\E.1, Luckhaupt, 3/9/10, which read:

Page 1, line 7:

Delete "\$1,000,000"

Insert "\$2,000,000 [\$1,000,000]"

Page 1, line 9:

Delete "\$200,000"

Insert "\$400,000 [\$200,000]"

Page 1, line 11:

Delete "\$25,000"

Insert "\$50,000 [\$25,000]"

Page 1, line 13:

Delete "\$10,000"

Insert "\$20,000 [\$10,000]"

REPRESENTATIVE GRUENBERG explained that both HB 355 and proposed Amendment 1 seek to legally obtain higher fines.

[2:05:36 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 1.

REPRESENTATIVE HOLMES objected for the purpose of discussion.

[Chair Ramras passed the gavel to Vice Chair Dahlstrom.]

REPRESENTATIVE GRUENBERG, in response to a question, posed a situation in which a bribe was offered in exchange for a vote at which point the bribery crime is completed because the crime is the offering of the illegal consideration. Regardless of whether the offeree does anything, the offeror is guilty of the bribe. Subsequent events occur such that the offeree votes against the bill, although the bill passes. Paragraphs (2) and (3) wouldn't apply because there was no gain to the defendant because the attempt to defeat the bill failed. Furthermore, there was no loss to the victim in the case because the bill passed. [This legislation] attempts to close the loophole.

MS. CARPENETTI, in response to Representative Dahlstrom, agreed that HB 355 would close a loophole.

REPRESENTATIVE GRUENBERG added that the crime of conspiracy is frequently used at the federal level. The crime of conspiracy is an illegal criminal contract in which two people come together to do something illegal, even if there's no further action the crime is complete. In that case, there is no gain to the defendant and no loss to the victim. Representative Gruenberg opined that this could be used in virtually any conspiracy that involved a property crime.

MS. CARPENETI pointed out that Alaska's conspiracy law is very limited, adding that she would need to research whether the conspiracy law would apply to property crimes.

REPRESENTATIVE GATTO posed a scenario in which an individual gives a candidate \$500, which is the limit, and then gives \$250 more. He inquired as to the result of the crime, the worth of that crime.

[2:10:27 PM](#)

REPRESENTATIVE GRUENBERG answered that he didn't think paragraphs (2) and (3) would apply in the case of illegal campaign contributions. He explained that illegal campaign contributions aren't bribes for a vote. Representative Gruenberg opined that it's not a crime involving a pecuniary gain or loss and thus isn't applicable.

REPRESENTATIVE GATTO suggested an applicable scenario in which the \$250 continues to be compounded into newer and better things. He asked if the [worth of the crime] would be \$250 or \$250,000 because of investment connections.

MS. CARPENETI related her belief that [the worth] would be the original amount.

REPRESENTATIVE GRUENBERG characterized this question as referring to how far out in the future it's applied.

MS. CARPENETI offered her belief that it would be at the time of the crime. She added that the crime of conspiracy in Alaska is limited to felonies against a person, certain Class A or B felonies involving controlled substances, and criminal mischief in the first degree, which includes intentionally damaging an oil or gas pipeline and terroristic threatening. She then pointed out that the provisions in HB 355 would apply to attempts of certain crimes, which would be useful. She noted that the [department's] attorneys are supportive of HB 355.

REPRESENTATIVE GRUENBERG surmised that in a crime against the pipeline, there would be pecuniary loss. He then related the need to consider including conspiracy for arson.

[2:13:16 PM](#)

The committee took an at-ease from 2:13 p.m. to 2:15 p.m.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

[2:15:08 PM](#)

CHAIR RAMRAS made a motion to adopt Amendment 1 to Amendment 1, such that the change proposed to page 1, line 7, would insert "\$2,500,000" rather than "\$2,000,000".

REPRESENTATIVE GATTO objected, then removed his objection.

There being no further objection, Amendment 1 to Amendment 1 was adopted.

CHAIR RAMRAS then made a motion to adopt Conceptual Amendment 2 to Amendment 1, such that the change proposed on page 1, line 9, would insert "\$500,000" rather than "\$400,000". There being no objection, Conceptual Amendment 2 to Amendment 1 was adopted.

CHAIR RAMRAS made a motion to adopt Conceptual Amendment 3 to Amendment 1, such that the proposed change to page 1, line 11, would insert "\$40,000" rather than "\$50,000".

REPRESENTATIVE HOLMES objected.

REPRESENTATIVE GRUENBERG inquired as to why Chair Ramras is proposing to lower the amount with Conceptual Amendment 3 while Amendments 1 and 2 increased the amounts.

CHAIR RAMRAS revised his motion to adopt Conceptual Amendment 3 to Amendment 1 such that the proposed change to page 1, line 11, would insert "\$75,000" rather than "\$50,000".

REPRESENTATIVE HOLMES withdrew her objection.

There being no further objection, the committee treated Conceptual Amendment 3 to Amendment 1 as adopted.

[2:17:59 PM](#)

CHAIR RAMRAS made a motion to adopt Conceptual Amendment 4 to Amendment 1, such that the proposed change on page 1, line 13, would insert "\$25,000" rather than "\$20,000". There being no objection, Conceptual Amendment 4 to Amendment 1 was adopted.

[2:18:20 PM](#)

REPRESENTATIVE HOLMES removed her objection to the adoption of Amendment 1, as amended.

REPRESENTATIVE GATTO objected, and asked if the fine amounts are justifiable.

REPRESENTATIVE GRUENBERG explained that the Legislative Research Services report labeled LRS Report 10.206 relates the fine amounts as adjusted for inflation. The original fine amounts more than accounted for inflation. He noted that prior to the earlier adopted amendments the fine amounts in HB 355 doubled the existing fine amounts since it has been some 20 years since these fines have been addressed. The amendments to Amendment 1 increase the fine amounts more. As the sponsor, Representative Gruenberg said that he doesn't have a problem with those increases because things are more sophisticated and there is more at risk than there was 20-30 years ago. These fine amounts merely provide the judge more discretion on what to do. Moreover, in dealing with an organization/corporation no one is jailed and people don't really care if a large corporation has been convicted of a commercial felony. He characterized it as a business decision on a cost versus profit basis. These fines, he pointed out, make it uneconomical/unprofitable to commit the crime. Representative Gruenberg said that he supports all the amendments to Amendment 1.

CHAIR RAMRAS related that he believes that the amendments to Amendment 1 strengthen Amendment 1.

REPRESENTATIVE GRUENBERG interjected that these fine amounts aren't amended every year, just every 20-25 years.

REPRESENTATIVE GATTO removed his objection to Amendment 1, as amended.

[2:22:58 PM](#)

CHAIR RAMRAS announced then that Amendment 1, as amended, was adopted.

[2:23:30 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 355, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 355(JUD) was reported from the House Judiciary Standing Committee.

[2:23:57 PM](#)

The committee took an at-ease from 2:23 p.m. to 2:25 p.m.

HB 115 - PERMANENT ABSENTEE VOTING

[2:25:06 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 115, "An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date." [Before the committee was CSHB 115(STA).]

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REPRESENTATIVE BOB BUCH, Alaska State Legislature, recalled that at the last hearing there was concern that the proposal in HB 115 could lead to potential fraud in terms of fraudulently obtaining a permanent fund dividend (PFD) or a ballot. Those concerns have been directed to the appropriate departments, including Tamara Cook, Director, Legislative Legal Services; Deborah Bitney, Director, Permanent Fund Division, Department of Revenue; and Gail Fenumiai, Director, Division of Elections, Office of the Lieutenant Governor. With the help of those experts, Representative Buch said that he determined that HB 115 won't create opportunities for fraud, but rather will combat it. With regard to the concern that the legislation will cause an increase in the fraudulently obtaining a permanent fund dividend, he explained that HB 115 will create a list that the Permanent Fund Division can utilize to verify residency. With regard to the concern that there will be an increase in residents fraudulently obtaining ballots, a voter may select one address to receive a ballot. Since ballots can't be forwarded, a voter who doesn't return the ballot will be removed from the list. Whatever degree a voter is informed has no bearing on a voter's ability to obtain a ballot. Mr. Buch concluded by stating that under this proposed legislation, there are no

changes in the current procedure although passage would allow the current process to be streamlined.

CHAIR RAMRAS remarked that he doesn't like HB 115.

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REPRESENTATIVE GATTO noted that there is no certainty that mail with this return address will simply be returned because an individual could have his/her neighbor picking up the mail while the individual is away. More importantly, he expressed the need to protect the public belief that the voting is legitimate. Representative Gatto characterized this proposed legislation as an assault on the legitimacy of the vote because so long as votes are simply forwarded, there is less assurance that the voting is legitimate. He indicated that it's difficult to corrupt a vote when the vote is given at the voting booth. Furthermore, he expressed concern with the amount of access voters can ignore on election day by voting prior to election day. He said that he is satisfied with existing law in this regard. In fact, HB 115 seems to provide an opportunity to unduly influence/corrupt the voting with undue influence of special interests, particularly when their name doesn't necessarily relate to the organization's purpose.

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CHAIR RAMRAS noted that he shares Representative Gatto's concern. He then acknowledged that the letter dated March 12, 2010, from the Permanent Fund Division specifies, "HB 115 will not adversely impact PFD eligibility determinations." However, he said PFD eligibility determinations aren't his concern, rather it's the fraud he's concerned about. Chair Ramras remarked that he, too, is uncomfortable with HB 115.

REPRESENTATIVE GRUENBERG, referring to the letter dated March 12, 2010, from the Permanent Fund Division, surmised that a permanent absentee ballot might raise a red flag for PFD purposes. Furthermore, it might provide the division with additional information to prevent fraud. To address concern with regard to PFD fraud, Representative Gruenberg suggested that the legislation could be amended to require an annual updated list of those individuals with the status of permanent absentee voters to be sent to the Permanent Fund Division.

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REPRESENTATIVE BUCH related that he would entertain such an amendment if such a requirement isn't already in place. He requested verifying whether such a requirement is already in place.

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GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, explained that the division sends a statewide voter list to the Permanent Fund Division annually.

REPRESENTATIVE GRUENBERG clarified that his suggestion would be for the Division of Elections to provide a list annually of those who request permanent absentee voter status to the Permanent Fund Division. He asked if the Division of Elections does anything like the aforementioned. If not, he asked if Ms. Fenumiai would support such an amendment.

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MS. FENUMIAI answered that the Division of Elections doesn't specifically send any absentee voter list to the Permanent Fund Division. However, the division could do so without hardship to the Division of Elections.

REPRESENTATIVE GATTO related his respect for the Permanent Fund Division to weed out "bad applications." Therefore, he questioned whether it would be appropriate for the Permanent Fund Corporation to simply renew the application annually until it's known that the applicant is making fraudulent applications by being out-of-state. He opined that no one would think a permanent absentee permanent fund dividend application is a good idea, although some may believe permanent absentee voting is acceptable. Representative Gatto further opined that he had difficulty separating the two because individuals who apply for the PFD include everyone while only half the people vote. He reiterated concern of increasing the amount of voter fraud and special interest groups all at the same time.

REPRESENTATIVE BUCH inquired as to from which agency Representative Gatto is requesting the list.

REPRESENTATIVE GATTO clarified that he isn't asking any entity to provide a list, rather he suggesting a permanent Permanent Fund Division application until the individual requests the application be forwarded.

REPRESENTATIVE GRUENBERG inquired as to the support for a permanent fund dividend application that would be "good for several years."

REPRESENTATIVE GATTO replied, "One year at a time."

REPRESENTATIVE GRUENBERG asked if individuals are allowed to apply one year at a time.

MS. FENUMIAI informed the committee that under federal law enlisted military personnel are allowed to apply [for absentee voter status] and their application is good through two general election cycles. However, all other individuals have to apply annually.

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REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 1 so that any individual in the state can [apply for permanent absentee voter status] for two election cycles.

REPRESENTATIVE DAHLSTROM objected.

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REPRESENTATIVE GATTO indicated a preference for not treating the general population the same as military personnel.

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MS. FENUMIAI, completing her earlier remarks, clarified that military personnel were allowed to apply once for two general election cycles until the Military Overseas and Voters Empowerment Act was passed. However, the federal law recently repealed the aforementioned, although it remains in state law.

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REPRESENTATIVE BUCH remarked that he doesn't object to Conceptual Amendment 1.

REPRESENTATIVE GRUENBERG, in response to Representative Gatto, clarified that Conceptual Amendment 1 would amend state law that only allows serviceman to apply [for permanent absentee voter status] for two election cycles to include any Alaskan registered voter.

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A roll call vote was taken. Representatives Gruenberg and Holmes voted in favor of the adoption of Conceptual Amendment 1. Representatives Dahlstrom, Gatto, Lynn, and Ramras voted against it. Therefore, Conceptual Amendment 1 failed to pass by a vote of 2-4.

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REPRESENTATIVE GRUENBERG made a motion to adopt Conceptual Amendment 2, which would have the Division of Elections send the Permanent Fund Division a list of those who apply for absentee ballots.

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REPRESENTATIVE DAHLSTROM objected for the purpose of discussion. Upon further clarification, Representative Dahlstrom removed her objection.

There being no further objection, Conceptual Amendment 2 was adopted.

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REPRESENTATIVE DAHLSTROM moved to report CSHB 115(STA), as amended, out of committee with individual recommendations and the accompanying fiscal notes.

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CHAIR RAMRAS and REPRESENTATIVE GATTO objected.

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A roll call vote was taken. Representatives Lynn, Gruenberg, and Holmes voted in favor of reporting CSHB 115(STA), as amended, out of committee. Representatives Gatto, Dahlstrom, and Ramras voted against it. Therefore, CSHB 115(STA), as amended, failed to be reported out of the House Judiciary Standing Committee by a vote of 3-3.

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REPRESENTATIVE GRUENBERG served notice of reconsideration.

REPRESENTATIVE DAHLSTROM related her belief that it's not in order to serve notice of reconsideration in committee.

REPRESENTATIVE GRUENBERG said that he would check with Legislative Legal Services. If reconsideration doesn't apply, rescinding the committee's action would be applicable.

[CSHB 115(STA), as amended, failed to be reported from committee.]

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:48 p.m.