

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

February 18, 2010

8:05 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Paul Seaton, Vice Chair  
Representative Carl Gatto  
Representative Peggy Wilson  
Representative Max Gruenberg  
Representative Pete Petersen

**MEMBERS ABSENT**

Representative Craig Johnson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 292

"An Act relating to grants to victims of a disaster in this state; and providing for an effective date."

- MOVED HB 292 OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 38

Proposing amendments to the Constitution of the State of Alaska relating to and increasing the number of members of the house of representatives to forty-eight and the number of members of the senate to twenty-four.

- MOVED CSHJR 38(STA) OUT OF COMMITTEE

HOUSE BILL NO. 115

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

- MOVED CSHB 115(STA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 292

SHORT TITLE: GRANTS TO DISASTER VICTIMS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/10            (H)            READ THE FIRST TIME - REFERRALS

01/19/10 (H) MLV, STA, FIN  
02/02/10 (H) MLV AT 1:00 PM BARNES 124  
02/02/10 (H) Heard & Held  
02/02/10 (H) MINUTE(MLV)  
02/04/10 (H) MLV AT 1:00 PM BARNES 124  
02/04/10 (H) Moved Out of Committee  
02/04/10 (H) MINUTE(MLV)  
02/05/10 (H) MLV RPT 5DP 1AM  
02/05/10 (H) DP: LYNN, T.WILSON, HARRIS, BUCH, GATTO  
02/05/10 (H) AM: KAWASAKI  
02/16/10 (H) STA AT 8:00 AM CAPITOL 106  
02/16/10 (H) Heard & Held  
02/16/10 (H) MINUTE(STA)  
02/18/10 (H) STA AT 8:00 AM CAPITOL 106

BILL: HJR 38

SHORT TITLE: CONST. AM: INCREASE NUMBER OF LEGISLATORS

SPONSOR(s): P.WILSON

01/19/10 (H) READ THE FIRST TIME - REFERRALS  
01/19/10 (H) STA, JUD, FIN  
02/02/10 (H) STA AT 8:00 AM CAPITOL 106  
02/02/10 (H) Heard & Held  
02/02/10 (H) MINUTE(STA)  
02/18/10 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 115

SHORT TITLE: PERMANENT ABSENTEE VOTING

SPONSOR(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

**WITNESS REGISTER**

MICHAEL O'HARE, Deputy Director  
Division of Homeland Security/Emergency Management  
Department of Military & Veterans Affairs  
Fort Richardson, Alaska

**POSITION STATEMENT:** Reviewed the key points of HB 292 and answered questions on behalf of the House Rules Committee, sponsor by request of the governor.

KARLA SCHOFIELD, Deputy Director  
Accounting  
Legislative Administrative Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HJR 38.

REPRESENTATIVE BOB BUCH  
Alaska State Legislature  
Juneau, Alaska

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

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

**POSITION STATEMENT:** Answered questions during the hearing on HB 115.

AL DAVIDSON  
Littleton, Colorado

**POSITION STATEMENT:** Testified during the hearing on HB 115.

JEFFREY A. MITTMAN, Executive Director  
American Civil Liberties Union (ACLU) of Alaska Foundation  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 115.

LARRY BENSON, President  
American Postal Workers Union American Federation of Labor and  
Congress of Industrial Organizations (APWU AFL-CIO) - Midnight  
Sun Area Local 2756  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 115.

#### **ACTION NARRATIVE**

[8:05:16 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:05 a.m. Representatives Seaton, Gatto, Wilson, Petersen, and Lynn were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

#### **HB 292-GRANTS TO DISASTER VICTIMS**

8:05:43 AM

CHAIR LYNN announced the first order of business was HOUSE BILL NO. 292, "An Act relating to grants to victims of a disaster in this state; and providing for an effective date."

8:06:18 AM

MICHAEL O'HARE, Deputy Director, Division of Homeland Security/Emergency Management, Department of Military & Veterans Affairs, reviewed that the proposed legislation would increase state individual assistance in a state-declared disaster from a cap of \$5,000 to half the amount of that which is given through federal individual assistance, which fluctuates with the consumer price index. A task force met and determined that \$5,000 was not enough and an increase is necessary. The task force included representatives from the following agencies: the Department of Commerce, Community, & Economic Development, the Department of Health and Social Services, the Division of Homeland Security/Emergency Management, the Alaska Housing Finance Corporation, and the American Red Cross, and other volunteer organizations active in disaster issues. The task force made the decision that the best model to modernize individual assistance to today's economy would be to provide half of the federal individual assistance, which currently is approximately \$30,000. The proposed bill would increase the state individual assistance grant to half of that, or approximately \$15,000 as a maximum cap to those victims of a state declared disaster.

8:08:50 AM

MR. O'HARE related that the spring floods in 2009 were devastating to communities in Alaska - the event was a federally declared disaster. Out of the 40 communities affected, there were approximately 30 households that did not qualify for federal assistance, and all the state was allowed by statute to provide for their individual assistance was \$5,000, which Mr. O'Hare said truly was not enough. He said the recommendation of the task force is in the proposed legislation. He explained that the proposed amount is needed to "provide equity in the recovery process," not to "make them whole."

8:09:44 AM

MR. O'HARE described the relief process to the committee. He said the state does not simply write checks. Individual

assistance officers run disaster assistance field centers in the communities where staff members accept applications from victims and verify the loss through on-site visits, photographs, and receipts, or through cross-verification statements from community leadership. The officers also verify that the victims could not otherwise recover on their own, either using their own finances or through insurance. The individual assistance officers cross-reference that information to determine whether there has been any past disaster noncompliance. Mr. O'Hare offered to answer questions.

8:10:53 AM

MR. O'HARE, in response to Representative Seaton, explained that if a federal disaster is declared, victims would apply for federal disaster relief and could qualify for the maximum \$30,000; however, victims could not receive both the \$30,000 and the state relief grant money, just one or the other.

REPRESENTATIVE SEATON said that was his understanding, but noted that the language in the bill does not support that. He directed attention to [paragraph (1)], on page 1, beginning on line 10, which read as follows:

(1) when the President declares a major disaster, the governor may make a grant of an amount whose total of federal and state shares does not exceed the maximum amount authorized by 42 U.S.C. 5174(h) [42 U.S.C. 5178(f)] for grants payable to individuals and families;

REPRESENTATIVE SEATON said he interprets that language to mean that the state grant is limited to the amount of the federal grant. For example, he said, if the federal grant had been \$7,000, the state could grant up to \$7,000, but no more.

MR. O'HARE explained that individuals in a federally declared disaster could qualify for grant money up to the maximum. Using Representative Seaton's example, he said if the victim qualified for \$7,000 of federal money, the state is required to give 25 percent of that \$7,000.

REPRESENTATIVE SEATON said he is trying to figure out the meaning of: "the governor may make a grant of an amount whose total of federal and state shares does not exceed the maximum". He asked if 42 U.S.C. 5174(h) refers "the \$29,000 cap."

MR. O'HARE confirmed that 42 U.S.C. 5174(h) contains the federal cap. He reviewed the language in Section 1(b)(1) and (2). Mr. O'Hare stated, "That's correct, in a federally declared disaster, the governor can provide for up to that amount - that \$30,000. They will be reimbursed by the federal government for ... the amount, less 25 percent." In response to a follow-up question from Representative Seaton, he confirmed that that requirement is written in federal regulations.

[8:15:42 AM](#)

REPRESENTATIVE PETERSEN asked how the 30 aforementioned Alaskans qualified for state aid, but not for federal aid.

MR. O'HARE explained that the state declaration [related to the aforementioned 2009 flooding] encompassed a wide area of affected river communities. He said, "They would not qualify for a federal declaration if the community as a whole was not widely affected, but there were individuals that were affected. So, a federal declaration may not encompass the entire state declared area."

[8:16:36 AM](#)

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

[8:16:46 AM](#)

REPRESENTATIVE GRUENBERG expressed concern that the proposed bill would not raise the cap even higher; however, he said he does not want to "kill the bill with kindness." He concluded, then, that he would not be offering an amendment to that end.

[8:17:34 AM](#)

REPRESENTATIVE GATTO directed attention to language on page 2, beginning on line 1, which states that if the governor declares a disaster emergency, "the governor may make a grant of an amount not to exceed **one-half of the maximum grant amount established under (1) of this subsection**". Representative Gatto said, "There's no reference to this grant." He surmised that it could be "a brand new grant outside of all other grants," and offered his understanding that that would mean that the governor could give a victim - as another grant - half of the maximum amount of the federal grant.

MR. O'HARE confirmed that is correct.

REPRESENTATIVE GATTO said, "So, we have two grants here."

MR. O'HARE reiterated that either the federal or the state grant can be given, not both.

REPRESENTATIVE GATTO asked Mr. O'Hare to provide an example as a means of clarification.

MR. O'HARE proffered:

For example purposes, Representative Gatto, you are a disaster victim in a federally declared disaster area. You are qualified to receive up to the federal limit of \$30,000, approximately, and that is your maximum. I, Mike O'Hare, being a disaster victim in a state declared area or those victims we just talked about ... would be, under this provision, ... entitled to receive up to half of that in a state grant. So, that would be the difference.

[8:20:51 AM](#)

REPRESENTATIVE SEATON said part of his confusion is a result of there being no language in the proposed legislation that says the department shall seek reimbursement from the federal government for the grant. He surmised that that language may be in some other section that is not being modified in HB 292.

MR. O'HARE confirmed that is correct; the language is contained in 44 U.S.C. In response to Chair Lynn, he suggested that any confusion that committee members may be experiencing could be cleared up by providing the language of that federal code; however, he opined that amending the bill may "muddy the waters as to the calculation formula - the process."

[8:23:28 AM](#)

REPRESENTATIVE GRUENBERG stated his understanding that federal law provides the mechanism for reimbursement; therefore the state does not need to have related language in its own law in order to seek reimbursement from the federal government.

MR. O'HARE responded that is correct.

[8:24:07 AM](#)

MR. O'HARE, in response to Representative Petersen, confirmed that "double dipping" - being awarded grant reimbursement from both the state and the federal government - is not a possibility.

[8:24:39 AM](#)

MS. WILSON related that she found the analysis in the fiscal note helpful.

[8:24:57 AM](#)

REPRESENTATIVE GRUENBERG moved to report HB 292 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 292 was reported out of the House State Affairs Standing Committee.

[8:25:17 AM](#)

The committee took an at-ease from 8:25 a.m. to 8:27 a.m.

**HJR 38-CONST. AM: INCREASE NUMBER OF LEGISLATORS**

[Not on the recording, but reconstructed from the committee secretary's log notes, was the following:]

CHAIR LYNN announced that the next order of business was HOUSE JOINT RESOLUTION NO. 38, Proposing amendments to the Constitution of the State of Alaska relating to and increasing the number of members of the house of representatives to forty-eight and the number of members of the senate to twenty-four.

REPRESENTATIVE P. WILSON reviewed the resolution. She noted that Representative Seaton had an amendment prepared to which she does not object.

REPRESENTATIVE SEATON moved to adopt Amendment 1, labeled 26-LS1323\A.1, Cook, 2/15/10, which read as follows:

Page 1, line 2:  
Delete "**forty-eight**"  
Insert "**forty-four**"

Page 1, line 3:  
Delete "**twenty-four**"  
Insert "**twenty-two**"

Page 1, lines 7 - 8:  
Delete "twenty-four"  
Insert "twenty-two"

Page 1, line 8:  
Delete "forty-eight"  
Insert "forty-four"

Page 1, line 12:  
Delete "forty-eight"  
Insert "forty-four"

Page 1, line 13:  
Delete "twenty-four"  
Insert "twenty-two"

Page 2, line 7:  
Delete "forty-eight"  
Insert "forty-four"

REPRESENTATIVE GRUENBERG objected for discussion purposes.

REPRESENTATIVE SEATON spoke to Amendment 1.

[8:31:36 AM](#)

[Recording begins again here.]

REPRESENTATIVE SEATON noted that the original fiscal note, dated 1/29/10, shows a 2016 total of \$4,470,000, while the total for 2016 shown in the new fiscal note, dated 2/16/10, is \$2,342,000 - nearly half the amount of the original fiscal note.

REPRESENTATIVE GRUENBERG removed his objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[8:32:26 AM](#)

REPRESENTATIVE P. WILSON explained that through the adoption of Amendment 1, the proposed bill now calls for fewer legislators, which would result in a reduction in the total of the fiscal note, because it would not be necessary to reconstruct legislative chambers or hire as many staff. She said not only would the overall cost of running the legislature be lower, but the districts would remain about the same size as they currently are. In response to Representative Gatto, she clarified that

she meant square miles of each district would remain about the same.

REPRESENTATIVE GATTO said he does not know how that could be possible.

[8:34:11 AM](#)

CHAIR LYNN closed public testimony.

[8:34:39 AM](#)

REPRESENTATIVE SEATON directed attention to information in the committee packet, regarding population trends for election districts in 2010, and noted that the average population per election district, from 2000 U.S. Census data, was 15,673. Under the proposed bill, as amended, the number of people each House district would represent would average 15,735, or approximately 50 more people in each election district. He said some election districts will change in size, and new election districts will be added to areas where the population has expanded - predominately the Matanuska/Susitna area. He said it is difficult to predict the changes that will be forthcoming. He explained the reason he offered Amendment 1 was that it would be a way to keep the election districts as close as possible to their current populations.

[8:37:07 AM](#)

REPRESENTATIVE P. WILSON said the areas losing population would remain about the same as they are currently, while areas growing in population would actually gain another Representative. In response to a question from Representative Gatto, she said it is true that areas gaining population would get additional representation no matter what the legislature decides regarding the proposed legislation.

REPRESENTATIVE GATTO asked then what the impetus for HJR 38 was.

REPRESENTATIVE P. WILSON said the push for this legislation is an attempt to be fair to all constituents and legislators, and to make it possible for all the citizens of the state to make contact with their legislators.

[8:40:06 AM](#)

REPRESENTATIVE GATTO questioned why Representative Wilson is not proposing a greater number of legislators if she is striving for equity.

REPRESENTATIVE P. WILSON responded that she is trying to be reasonable.

[8:40:44 AM](#)

REPRESENTATIVE PETERSEN offered his understanding that when the committee discussed HJR 38 at a previous hearing, it was brought up that one of the reasons for the proposed legislation was to avoid the possibility of the State of Alaska finding itself in violation of the Voting Rights Act of 1965, [as it relates to the protection of large minority concentrations].

[8:41:17 AM](#)

REPRESENTATIVE P. WILSON cited language in the Constitution of the State of Alaska, Article 6, Section 6, regarding legislative apportionment, which read as follows:

Each house district shall be formed of contiguous and compact territory containing as nearly as practicable a relatively integrated socio-economic area.

REPRESENTATIVE P. WILSON stated that as districts get bigger, the state is no longer keeping them within the bounds of Article 6, Section 6. She said if the legislature does not pass HJR 38, the courts may take over, which she said they already have done "in all but one of the state's reapportionments."

[8:42:58 AM](#)

REPRESENTATIVE GATTO asked if any studies have been done that show "the difficulties" addressed by the bill sponsor, as well as model solutions from other states.

REPRESENTATIVE P. WILSON responded, "We don't have any studies, but there has been much debate on it, and the courts have already complained about it in the past."

[8:45:19 AM](#)

KARLA SCHOFIELD, Deputy Director, Accounting, Legislative Administrative Services, Legislative Affairs Agency, in response to Representative Gruenberg, said the two-page fiscal note is as

complete as it can be; it's ultimate accuracy would depend on how the redistricting lines were drawn.

REPRESENTATIVE GRUENBERG asked where additional legislators would be housed if HJR 38 is enacted.

MS. SCHOFIELD responded that that would depend upon the House and Senate Rules committees and Legislative Council. Notwithstanding that, she suggested the following options: adding more desks to the chambers, reconfiguring the Thomas B. Stewart Legislative Office Building, decreasing the size of existing legislative offices, and asking the governor to consider moving from the capitol to another location. The latter would entail an expense for the executive branch in supplying another building. In response to a follow-up question, she said if the offices were to fit within the capitol, it would be necessary to hire architectural services. She said Accounting tried to leave surplus money in the figuring of the fiscal note "so that ... any option that came up we could at least move on." In response to further questions, she stated, "... If we really did put an addition on the capitol or did something like that, it would be a capital appropriation. I think the money that's in there would be sufficient to at least make a good start on it, ... it would just depend on what option legislators chose."

[8:48:30 AM](#)

MS. SCHOFIELD, in response to Representative Gatto, said she has worked for the Alaska State Legislature since 1982. In response to a follow-up question, she said she cannot recollect having ever heard a legislator complain that he/she has an office that is too large. In response to a question from Representative Gatto as to whether she has heard complaints from legislators that their offices are too small, she stated, "Actually, most legislators seem to be very accommodating, understanding how the capitol building is constructed."

CHAIR LYNN remarked that he would like to have an intern, but there is no room in his office for one.

[8:49:17 AM](#)

MS. SCHOFIELD, in response to a question from Representative Petersen, said currently some staff has assigned parking, and those parking assignments would have to be relinquished in order to provide enough parking for additional legislators. In

response to a question from Representative Gatto, Ms. Schofield said other needs for consideration, for example, a child care facility, would be the purview of the Senate and House Rules Committees and Legislative Council.

[8:51:13 AM](#)

REPRESENTATIVE GRUENBERG moved to report HJR 38, as amended, out of committee with individual recommendations and the accompanying fiscal notes. [The two out of three fiscal notes in the committee packet that would accompany the proposed resolution are dated 2/9/10 and 2/16/10.]

[8:51:47 AM](#)

REPRESENTATIVE GATTO objected.

[8:51:51 AM](#)

A roll call vote was taken. Representatives Wilson, Gruenberg, Petersen, Seaton, and Lynn voted in favor of reporting HJR 38, as amended, out of committee. Representative Gatto voted against it. Therefore, CSHJR 38(STA) was reported out of the House State Affairs Standing Committee by a vote of 5-1.

The committee took an at-ease from [8:52:21 AM](#) to [8:55:59 AM](#).

#### **HB 115-PERMANENT ABSENTEE VOTING**

[8:56:07 AM](#)

CHAIR LYNN announced that the final order of business was HOUSE BILL NO. 115, "An Act establishing a permanent absentee voting option for qualified voters; and providing for an effective date."

[8:56:34 AM](#)

REPRESENTATIVE BOB BUCH, Alaska State Legislature, as prime sponsor, said HB 115 would create a permanent absentee option for Alaska voters. The proposed legislation would allow the Division of Elections to send an absentee ballot for every election it operates to Alaska voters who have chosen that option. Furthermore, the voter would not have to apply for an absentee ballot for every election; he/she would have only to apply once.

REPRESENTATIVE BUCH reported that voting by means of a permanent absentee ballot is gaining popularity across the country; already 8 states use the system and 21 more are considering it. The State of Oregon's system is the most well known, has been in existence since the '80s, and was considered when drafting HB 115. Representative Buch said ultimately HB 115 would not make any changes to statute or to the procedures that govern the absentee voting process; it would merely provide for a permanent option. He related that the proposed legislation would affect only those elections run by the Division of Elections, which means state elections, not municipal elections. He said under HB 115, voters will still have the option of choosing a one-time absentee ballot or voting at a regular polling place.

REPRESENTATIVE BUCH said the proposed legislation, if enacted, would take effect in 2010. In addition to making voting more convenient for Alaskans, including soldiers, miners, North Slope workers, and the elder population, the proposed bill would also streamline the absentee voting process for the Division of Elections by cutting down on paperwork and administrative costs. He said the division supports the bill and has representatives ready to testify. Other supporters include some individuals who work for the United States Postal Service (USPS).

[8:59:07 AM](#)

REPRESENTATIVE BUCH, in response to a question from Representative Gruenberg, confirmed that the effective date of the bill, 1/1/10, would need to be changed, since the bill would most likely not be made retroactive. He said he would like the director of the Division of Elections to address that issue and recommend a date that would be suitable for the division.

[9:00:15 AM](#)

REPRESENTATIVE GRUENBERG sought clarity regarding language on page 2, lines 11-13, which read as follows:

(b) A person may supply to a voter a permanent absentee voting application form with a political party or group affiliation indicated only if the voter is already registered as affiliated with the political party or group indicated.

REPRESENTATIVE BUCH said a person who wants to vote using an absentee ballot fills out an application. He indicated that the person's identification is the responsibility of the Division of

Elections. He deferred to the director of the division for further details. In response to a remark by Chair Lynn, he confirmed that under HB 115, a person would still have to first declare party affiliation or non-affiliation before applying for a permanent absentee ballot. He reemphasized that the proposed legislation would in no way change the current process or oversight of the election process.

[9:02:41 AM](#)

REPRESENTATIVE BUCH, in response to Chair Lynn, talked about the advantages of HB 115. He described the ease of checking off a box indicating the desire to switch to permanent absentee voting status and not having to reapply for that status each election.

[9:03:41 AM](#)

REPRESENTATIVE SEATON directed attention to language within the fiscal note analysis, which read as follows:

In order to ensure the integrity of the process, the division would send confirmation notices at the beginning of each election year to all voters designated as permanent absentee voters to ensure the address on file is still accurate. The division estimates postage and printing costs of \$20.0. This amount would be a recurring cost during even numbered election years.

REPRESENTATIVE SEATON asked for clarification regarding whether or not the voter would be responsible for returning a card to the division.

[9:04:48 AM](#)

REPRESENTATIVE BUCH deferred to Ms. Fenumiai.

[9:05:25 AM](#)

GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, in response to Representative Seaton, described the standard practice of the division as it relates to absentee voting ballots as follows: The division sends confirmation notices to all absentee voters, advising them that according to the division's records, they have requested to receive an absentee ballot for certain or all elections conducted by the state in a calendar year. Reflected in the

notices are the addresses to which the voters have indicated they want their ballots mailed. The division asked voters to notify the division regarding any updates that need to be made. If a notice comes back undeliverable, the division checks to ensure it has not made an entry error and, if it has not, marks the voter's record to reflect such and cancels the ballot request for any subsequent elections.

CHAIR LYNN asked if a person showing up to vote at the polling place cancels "the other registration."

MS. FENUMIAI responded, "No, that does not have any effect on them to be able to vote in person at their polling place."

CHAIR LYNN asked Ms. Fenumiai if she thinks there would be a higher incidence of voter fraud using the proposed permanent absentee voter system than the current system.

MS. FENUMIAI stated her belief that there would not be a higher incidence of voter fraud, because she said the division has enough checks and balances in place to verify addresses. When ballots are returned, they are reviewed by a bi-partisan board to validate that the identifier provided by the voter is that voter's true identifier. She said the signing of a ballot is witnessed by someone authorized to administer an oath or at least by one person over the age of 18.

[9:07:47 AM](#)

REPRESENTATIVE BUCH reported that the State of Oregon has been offering permanent absentee voting for a number of years and has had no incidences of increased fraud. He said all voters in Oregon vote by mail. He noted that Ms. Fenumiai has had experience with the State of Oregon's voting system. He stated that that experience and "our" investigations are two of the reasons that he is bringing forward this legislation.

[9:08:48 AM](#)

CHAIR LYNN opined that voting is a privilege, and he mentioned the threat some people in other countries experience if they do not vote a certain way. He observed that absentee voting used to be primarily for those who could not physically get to the voting polls, but this is no longer the case. He questioned how easy the state should make voting for those who are able to get to the polls.

9:10:27 AM

MS. FENUMIAI, in response to Chair Lynn, clarified that she did not live and vote in Oregon, but observed the system during a trip to that state to discuss the vote-by-mail system. She noted that a former chief of staff to former Lieutenant Governor Fran Ulmer transferred to Oregon and was the director of state elections there.

9:10:50 AM

MS. FENUMIAI, in response to Representative Wilson, explained the division's process regarding deaths of registered voters. She said the division either receives notification directly from the family, vital statistics, or obituaries in the newspapers. The division uses certain information, such as date of birth, as an identifier to ensure it is inactivating the appropriate person.

REPRESENTATIVE P. WILSON said she has a problem with the proposed legislation. She shared her past experience having lived in other states where "there have been dead people that have voted." She said as of December [2009], the name of a friend's late husband, who died over a year ago, was still on a state's voting list. She expressed concern about this issue and said it makes her "a little leery."

9:13:19 AM

MS. FENUMIAI responded that when someone applies for an absentee by-mail ballot, he/she must provide a unique identifier. Using the scenario described by Representative Wilson, she said a person would not be able to get a by-mail ballot using a dead person's name, because they would not be able to prove identity through one of the identifiers required by state law when applying to vote by mail.

REPRESENTATIVE P. WILSON clarified her concern is that if the proposed legislation allows permanent absentee voting, a person could "do it for quite awhile" before the division catches him/her.

MS. FENUMIAI replied that under HB 115, if the person applies to be an absentee voter, the ballot would continue to be sent to the person's mailing address. She said she assumes that would be a residential address, and [if the person died], a spouse or family member might take the responsibility to contact the

division. If someone did contact the division and the division's staff did not remove the person's name, a correction would have to be made. If someone were to try to vote in person using the deceased person's name, he/she would be found out, because voters must show photograph identification at the polling place.

CHAIR LYNN questioned whether an adult in the home of the deceased could use the deceased person's absentee ballot.

MS. FENUMIAI responded that the ballot must be witnessed by someone who can verify the identity of the voter.

CHAIR LYNN suggested that another adult in the house could bear false witness.

MS. FENUMIAI said she supposes that could happen; however, she said the division has seen no documented cases of that happening. Furthermore, she said [using the ballot of a deceased person] is a felony.

REPRESENTATIVE BUCH pointed out that absentee voting is already in place, so "the incidences of that fraud would not be enhanced or detracted by this opportunity."

MS. FENUMIAI echoed Representative Buch's remark and reiterated that the division has seen no cases of this happening.

[9:16:21 AM](#)

MS. FENUMIAI, in response to a question from Chair Lynn, said she has been told that morticians are required by law only to notify the Social Security Administration that someone has died; they are not required to notify the Division of Elections or the Division of Motor Vehicles (DMV). In response to a follow-up question, she said requiring morticians to report deaths to other entities may be helpful, but morticians may not be able to handle that. She added, "We would take the information in whatever form we could get to make sure our rolls are as accurate and complete as possible."

CHAIR LYNN related that when his grandparents died, he immediately notified the Social Security Administration, but continued to receive social security checks for six months. He said, "That's scary."

MS. FENUMIAI noted that when funeral homes in Alaska report information to the state's Bureau of Vital Statistics, the division can get that information from the bureau. In response to a question from Chair Lynn, she offered further details regarding the process of obtaining the information from the Bureau of Vital Statistics' database on a monthly basis. In response to a follow-up question, she said she does not know how long it takes for [information related to a death certificate] to reach the Division of Elections.

9:20:38 AM

MS. FENUMIAI, in response to Representative Petersen, said under HB 115, the division would not have to process a voter's application every year if he/she chose to be a permanent absentee voter, so there is potential that the proposed bill could cut down on the number of applications the division would process. However, sending a confirmation notice every other year is standard procedure, so there would still be a cost involved in printing and mailing letters, and staff time. She stated that the \$20,000 reflected in the fiscal note is a valid expense and is "something that would help protect the integrity of the process."

9:21:32 AM

MS. FENUMIAI, in response to a question from Representative Gatto, said she does not know whether or not confirmation notices can be forwarded. She stated that ballots are definitely not forwardable. She said, "I think we send them out 'return service requested,' which means it's not forwarded; we get a notice back that there's an address change on ... file." She said she would have to verify that with the group of staff that addresses absentee ballots.

CHAIR LYNN remarked that the division would not know whether a person had moved to a location or was there just on vacation.

MS. FENUMIAI responded that is correct.

9:22:46 AM

REPRESENTATIVE GATTO stated that he has issues with "permanent anything." He said he has filled out the permanent fund application for approximately 25 years, and making everyone fill out an application each year shows that the applicant is alive and verifies certain details. He suggested allowing the

Division of Elections and the Permanent Fund Division to cross check each other's information.

9:24:30 AM

REPRESENTATIVE BUCH responded that [HB 115] addresses the issue of voting. It is the Division of Elections' obligation, in conjunction with USPS, to oversee fraud. He deferred to Ms. Fenumiai for further comment.

9:25:33 AM

MS. FENUMIAI, regarding Representative Gatto's idea to allow the two divisions to crosscheck their information, expressed concern that that may result in problems in the case where someone does not collect a permanent fund dividend (PFD) but wants an absentee ballot. She said she thinks that is a question for Legislative Legal and Research Services or a lawyer. Notwithstanding that, she said the division could have access to the Permanent Fund Division's information, because the two divisions do share information currently.

9:26:25 AM

REPRESENTATIVE SEATON remarked that the residency requirements for voting and the PFD are quite different. For example, he offered his understanding that the residency requirement is 30 days. He asked at what point a person would be removed from the permanent absentee voting list.

9:27:15 AM

MS. FENUMIAI said under HB 115, the only reason a person would be removed from the permanent absentee list is if his/her ballot was returned undeliverable to the division. At that point, the person would not be sent any further ballots until he/she had notified the division of an updated mailing address.

9:27:34 AM

REPRESENTATIVE BUCH asked Representative Seaton to clarify his question.

REPRESENTATIVE SEATON said he wants to know if there should be language in the proposed legislation that if there are a certain number of election cycles for which the absentee ballots are not returned, then the permanent voting status would end.

9:30:25 AM

REPRESENTATIVE BUCH indicated that that issue is addressed in the bill, and he deferred to Ms. Fenumiai for further comment.

9:30:41 AM

MS. FENUMIAI explained that under HB 115, if a ballot is sent out and returned to the division undeliverable, the intended recipient will no longer receive any future ballots. There is no language in the bill that specifies that if a person does not return a ballot after so many years, his/her name would be removed from the division's list. She said there are other provisions in state law such that voters who do not vote and have no contact with the division are "scheduled to be targeted to be removed and inactivated from the voter list"; however, she stated that that is a separate process from the permanent absentee process.

REPRESENTATIVE SEATON questioned if the purpose of permanent absentee voting is to cut down on the amount of work that, for example, a senior citizen has to go through every year. He said having the permanent status removed after a certain amount of years with no returned ballot would "solve some of the problems" he perceives.

REPRESENTATIVE BUCH said he thinks that is an excellent idea that he will carry out prior to the next committee meeting.

9:32:22 AM

REPRESENTATIVE GATTO asked the bill sponsor if he is presenting HB 115 because he believes it will "create better government."

REPRESENTATIVE BUCH answered, "Absolutely."

REPRESENTATIVE GATTO suggested that the proposed legislation would make it easier for those who do not care about voting to have a ballot in their hands, and he asked Representative Buch if he believes that will create better government.

REPRESENTATIVE BUCH responded that he thinks most people who get a ballot are responsible and will make a choice based on appropriate information. He added, "And that is the availability that the government offers."

9:33:29 AM

CHAIR LYNN remarked that a variety of people vote and the voting system works well.

9:33:54 AM

AL DAVIDSON told the committee that he previously served for over 20 years as a county clerk and chief elections officer in Marion County, Oregon, serving the capital city of Salem, Oregon, and he helped write most of the legislation and procedures for Oregon's all-mail elections. He told committee members that it is important to keep in mind that they are not considering a total vote-by-mail system, but rather are considering the frequency of applications for absentee ballots. He said he thinks the legislature's consideration of HB 115 represents recognition of voters' sentiment in wanting election processes to be more accessible while allowing the division to retain sufficient control to ensure fair elections.

MR. DAVIDSON said every time there is a change in election law, the issues of valid access and election integrity must be weighed. He opined that [HB 115] is an opportunity to improve access without any detrimental impact on election integrity, and that creation of a permanent absentee voter application is a step that improves not only the voters' access to the ballot, but significantly reduces administrative activity and improves efficiency in the administration of elections. He relayed that before the State of Oregon's citizens voted 70 percent in favor of all-mail balloting in 1998, a change was made to permanent rather than annual absentee applications. He said that initial change resulted in an "immediate response" by citizens, as well as a significant reduction in the state's administrative task in handling applications on an annual basis - one of the most labor intensive tasks involved in the election process.

MR. DAVIDSON related that in Colorado, permanent absentee applications have been available for only a few years, but already, in the county in which he lives, 70 percent of the voters have signed up to be permanent absentee voters. In the 2008 election, 72 percent of those voting chose to do so absentee and were signed up as permanent absentee voters, he reported. The turnout by absentee voters during the Presidential election was nearly 193,000, compared to the 44,000 voters who went to the polls. He said, "I can't imagine what my office would be like if I had to process 193,000 absentee applications every single year." He pointed out that permanent

absentee voting reduces the burden on the citizen to remember to apply annually, although they have the option to do so. Mr. Davidson concluded by stating that he sees no downside to HB 115.

[9:38:11 AM](#)

MR. DAVIDSON offered further response to the previously asked questions. He said the processes for getting people off the voting rolls who have not had contact with the elections office after a significant period of time are specified based on the National Voter Registration Act of 1993 and the Help America Vote Act of 2002, and he said Alaska could augment those processes with its own state law and regulations. That has happened in Oregon and in Colorado. He said he is familiar with many administrative processes by which to make that happen. Mr. Davidson offered his understanding that one issue that had not been mentioned was that of security in absentee balloting and all-mail balloting. He said the signature on every single ballot that is returned is checked against the signature that is on the voter registration rolls. He characterized that process as "the ultimate element of security."

[9:39:19 AM](#)

JEFFREY A. MITTMAN, Executive Director, American Civil Liberties Union (ACLU) of Alaska Foundation, said ACLU is concerned with the rights of Alaskans under the U.S. Constitution and the Constitution of the State of Alaska, and he emphasized that the most fundamental right is the right to vote. He reported that ACLU research has found that permanent absentee voter status is an important tool in increasing participation in voting and democracy. He said the findings show that there have been "minimal, if any," instances of fraud resulting from [allowing permanent absentee voting]. He thanked the committee for considering the bill.

[9:40:16 AM](#)

LARRY BENSON, President, American Postal Workers Union American Federation of Labor and Congress of Industrial Organizations (APWU AFL-CIO) - Midnight Sun Area Local 2756, relayed that he approached Representative Buch with the idea for the proposed legislation. He stated, "The sanctity of the ballot is paramount to process." He said USPS has been delivering vital documents for over 200 years. Those working for the USPS have submitted to background checks, drug screening, and are held to

the U.S. Code of Conduct and ethics laws. Furthermore, he said, USPS has internal enforcement agencies - the Office of the Inspector General and the Postal Inspection Service - which work closely with the Federal Bureau of Investigation to protect public mail fraud. Mr. Benson said USPS is currently the only delivery service that can handle absentee ballots, and would like to continue that as such. He indicated that USPS is well equipped with the machinery necessary to process mail and get ballots to citizens and back to the division in a timely manner. He said there is a central forwarding system that alerts postal workers when mail is returned. He noted that, as mentioned by Ms. Fenumiai, [absentee ballots] are sent "return service requested," so that if the recipient is no longer at the address listed, the mail is returned.

[9:42:14 AM](#)

REPRESENTATIVE GRUENBERG asked Mr. Mittman, "Since this would involve a change in Alaskans' voting procedure, would it have to get preclearance?" He observed that Ms. Fenumiai was nodding yes. In response to Chair Lynn, he said preclearance is related to Section 5 of the Voting Rights Act of 1965. He then suggested that HB 115 proposes something similar to that which is offered by DMV.

MS. FENUMIAI said she does not have any direct experience with DMV requirements, but offered her understanding that a person can renew his/her vehicle registration on line. In response to Representative Gruenberg, she said the division would be fine with changing the effective date to 2011.

[9:44:26 AM](#)

CHAIR LYNN closed public testimony.

[9:44:34 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Conceptual Amendment 1, as follows:

On page 5, line 24:  
Change "2010" to "2011"

There being no objection, Conceptual Amendment 1 was adopted.

[9:45:00 AM](#)

REPRESENTATIVE PETERSEN recollected that while campaigning, several of his constituents asked him if they had to apply for an absentee ballot if they had voted absentee in the past. Some people actually assumed that once they signed up to vote absentee, they would continue to receive absentee ballots. Some of the constituents were elderly, he said, and it may have been difficult for them to remember the last time they filled out an application to receive an absentee ballot. He stated that one of the biggest complaints of voters is finding the time to get to the election polls and waiting in long lines to vote. He surmised that, based on the information from [Mr. Davidson], 70 percent of the people in his county had applied for permanent absentee voting, and adopting the proposed legislation may shorten the lines at the polls considerably and also reduce stress on volunteers working at the polling places. He concluded by stating that he thinks HB 115 is a good bill.

[9:47:07 AM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 2, to remove a voter's name from the permanent absentee voter status if that voter fails to return all ballots within a full election cycle. In response to Chair Lynn, he stated, "That would conceptually fit in this bill under the status of [an] application."

[9:48:23 AM](#)

MS. FENUMIAI, in response to Representative Gruenberg, said the division could accommodate [Conceptual Amendment 2], but she said she does not know if there are any legal problems associated with it.

[9:48:39 AM](#)

REPRESENTATIVE GRUENBERG removed his objection to Conceptual Amendment 2, but said he wants Ms. Fenumiai to be able to look at the wording when the amendment is incorporated into the proposed bill.

REPRESENTATIVE SEATON said that would be fine with him. He said he thinks it is best to offer the amendment before the House State Affairs Standing Committee.

[9:49:27 AM](#)

REPRESENTATIVE BUCH expressed appreciation for the committee's indulgence and diligence, and he said he thinks "a conceptual amendment at this point would be appropriate."

REPRESENTATIVE GRUENBERG asked that Representative Seaton work with "these folks" to ensure they are comfortable with the resulting language.

[9:50:07 AM](#)

REPRESENTATIVE SEATON, in response to a request from Representative Wilson for clarification of Conceptual Amendment 2, reiterated the intent of the amendment.

[9:50:37 AM](#)

REPRESENTATIVE GRUENBERG asked Ms. Fenumiai what the current practice is now regarding leaving someone's name on the voter rolls.

MS. FENUMIAI responded that a person not voting is not a reason on its own for the division to remove that person from the voter registration rolls. She explained that to trigger "the whole purging process," a person would have to not vote and not have contact with the division for four calendar years.

REPRESENTATIVE SEATON clarified that Conceptual Amendment 2 would not remove anyone from the voter registration roll; it would only remove him/her from permanent absentee voter status. The person could reapply. He said the intent of the amendment is so that the division does not send ballots year after year without having any of them returned.

[9:53:41 AM](#)

MR. DAVIDSON, in response to Representative Gruenberg, said in Colorado, if a person does not vote - whether at the polling place or through absentee ballot - [the entity in charge of Colorado's elections] takes appropriate action based upon what it finds out. Often the person has moved and, although most ballots come back when undeliverable, sometimes they are delivered. He stated that he thinks [Conceptual Amendment 2] would offer an effective approach.

[9:54:11 AM](#)

REPRESENTATIVE GRUENBERG restated that he had removed his objection to the motion to adopt Conceptual Amendment 2. There being no further objection, it was so ordered.

[9:54:34 AM](#)

REPRESENTATIVE GRUENBERG moved to report HB 115, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 115(STA) was reported from the House State Affairs Standing Committee.

[9:55:04 AM](#)

REPRESENTATIVE BUCH thanked committee.

[9:55:55 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:56 a.m.