

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

January 29, 2013

8:04 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Wes Keller, Vice Chair  
Representative Lynn Gattis  
Representative Shelley Hughes  
Representative Doug Isaacson  
Representative Charisse Millett  
Representative Jonathan Kreiss-Tomkins

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 1

"An Act relating to issuance of drivers' licenses."

- MOVED CSHB 1(STA) OUT OF COMMITTEE

HOUSE BILL NO. 52

"An Act relating to allowable absences from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date."

- MOVED HB 52 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 1

SHORT TITLE: REQUIREMENTS FOR DRIVER'S LICENSE

SPONSOR(S): REPRESENTATIVE(S) LYNN, HAWKER, CHENAULT, JOHNSON

01/16/13	(H)	PREFILE RELEASED 1/7/13
01/16/13	(H)	READ THE FIRST TIME - REFERRALS
01/16/13	(H)	STA, JUD
01/29/13	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 52

SHORT TITLE: PFD ALLOWABLE ABSENCE

SPONSOR(S): REPRESENTATIVE(S) FEIGE

01/16/13 (H) PREFILE RELEASED 1/11/13  
01/16/13 (H) READ THE FIRST TIME - REFERRALS  
01/16/13 (H) STA  
01/29/13 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

FORREST WOLFE, Staff  
Representative Bob Lynn  
Alaska State Legislature  
**POSITION STATEMENT:** Presented HB 1 on behalf of Representative Lynn, a joint prime sponsor.

SHELLY MELLOTT, Deputy Director  
Division of Motor Vehicles (DMV)  
Department of Administration (DOA)  
Anchorage, Alaska  
**POSITION STATEMENT:** Answered questions during the hearing on HB 1.

AMY ERICKSON, Director  
Division of Motor Vehicles (DMV)  
Department of Administration (DOA)  
Anchorage, Alaska  
**POSITION STATEMENT:** Answered a question during the hearing on HB 1.

EARLING JOHANSEN, Assistant Attorney General (AG)  
Labor & State Affairs Section  
Civil Division - Anchorage  
Department of Law (DOL)  
Anchorage, Alaska  
**POSITION STATEMENT:** Answered questions during the hearing on HB 1.

BRIAN ROSS  
Okinawa, Japan  
**POSITION STATEMENT:** Testified in support of HB 52.

REPRESENTATIVE ERIC FEIGE  
Alaska State Legislature  
Juneau, Alaska  
**POSITION STATEMENT:** Introduced HB 52, as sponsor.

MICHAEL PASCHALL, Staff  
Representative Eric Feige

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 52 on behalf of Representative Feige, sponsor.

HILLARY MARTIN, Attorney  
Legislative Legal and Research Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 52.

#### **ACTION NARRATIVE**

[8:04:47 AM](#)

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:04 a.m. Representatives Kreiss-Tomkins, Gattis, Keller, Isaacson, Millett, Hughes, and Lynn were present at the call to order.

#### **HB 1-REQUIREMENTS FOR DRIVER'S LICENSE**

[8:04:53 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 1, "An Act relating to issuance of drivers' licenses."

[8:05:06 AM](#)

REPRESENTATIVE KELLER moved to adopt Version 28-LS0008\U [the original bill version].

REPRESENTATIVE MILLETT, at the request of the chair, objected for the purpose of discussion.

[8:05:42 AM](#)

FORREST WOLFE, Staff, Representative Bob Lynn, Alaska State Legislature, presented HB 1 on behalf of Representative Lynn, a joint prime sponsor. He noted that in a proposed committee substitute (CS) for HB 1, [Version 28-LS0008\C, Strasbaugh/Martin, 1/23/13], "by mail" [on page 1, line 11 of the original bill] would be removed.

[8:06:11 AM](#)

CHAIR LYNN, as a joint prime sponsor, made introductory comments regarding HB 1. He stated that under HB 1, the Division of Motor Vehicles would be authorized to issue a driver's license for a period of less than five years for someone who has a legal presence in the United States for less than five years. Currently, a visitor to the U.S. whose visa will expire in two weeks can walk into the DMV and get a driver's license that does not expire for five years. The proposed legislation would link the duration of the driver's license to the duration of the visa or any other legal-presence document. If the legal presence document is for some indefinite or provisional period, such as for someone seeking asylum, then under HB 1, the driver's license could be issued for one year but renewed each year thereafter for a period up to five years at no additional expense. Chair Lynn noted that similar legislation has been passed in other states, and he asked that the committee support the proposed legislation.

8:07:20 AM

MR. WOLFE stated that determining how long a foreign national is allowed to stay in the U.S. is the purview of the Department of Homeland Security; the State of Alaska should not be issuing official or legal documentation that outlasts a person's legal presence in the U.S. The proposed legislation would enable the DMV to issue a driver's license for less than five years so that a visitor's license expires at the same time as their visa or other authorized length-of-stay document. He said HB 1 reflects what is considered best practice by the American Association of Motor Vehicle Administrators (AAMVA). Currently, he reported, 36 other states, as well as the District of Columbia, have these similar policies in statute or regulations.

MR. WOLFE said the Alaska DMV already requires a new applicant of a driver's license to prove legal presence, as is the case in all but four other states. The proposed legislation, he said, merely fine-tunes existing law to ensure that a driver's license reflects the documentation that is currently submitted to the DMV. Further, the proposed legislation would allow an international visitor to renew his/her license without an additional fee if his/her visa or legal-presence-document is extended for a period of up to five years - the same extension time that is currently permitted for nearly all Alaskans. The renewals can be done in person, by mail, and possibly soon by Internet, and ensures that visitors will not incur extra fees. Mr. Wolfe repeated Chair Lynn's remark that in the rare instance that a visitor has a provisional, pending, or indefinite length

of stay, he/she would renew the license each year, but with no additional fees.

MR. WOLFE stated the intent of the joint sponsors was to keep the proposed bill as simple as possible, which is why HB 1 does not address state identification (ID) cards. He said the DMV already has the authority to issue state ID cards for less than five years; it does not have the same authority for driver's licenses. He reiterated that HB 1 would not change how Alaskan's obtain a driver's license. Further, there is no requirement under HB 1 that people present any immigration documentation as proof of ID when applying for a driver's license. However, if a person does use such documents, the DMV would consider the expiration date.

MR. WOLFE related that HB 1 is essentially the same as legislation carried last year that garnered a House vote of 33-2, with 5 excused absences. He noted that there were people from the DMV and the Department of Law available to answer questions.

[8:10:02 AM](#)

SHELLY MELLOTT, Deputy Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), in response to a question from Representative Keller, stated that currently the DMV will renew [a driver's license] one time via mail. In response to a follow-up question, she said the DMV anticipates having to adopt regulations to accommodate HB 1.

[8:12:08 AM](#)

MS. MELLOTT, in response to Representative Isaacson, offered details regarding the renewal process of a license, including that the DMV verifies the information provided by the applicant from his/her last document of issue, in order to verify the applicant's identity. Following that, she said, the DMV goes through a process to verify the applicant's eligibility. Upon meeting both criteria, the applicant prints out the completed document, signs it, mails it into the division with payment, and the division issues the applicant a new card, reusing the photograph, and then mails the card to the applicant.

REPRESENTATIVE ISAACSON offered his understanding that the intent of HB 1 is to allow the division to issue a license for less than five years, while the secondary intent is to not allow an immigrant to have a document that says he/she is legal in

Alaska. He asked how the bill would meet the secondary intent. For example, he said a person could request an extension on a license without showing proof that his legal presence document allows him to be in the U.S. He asked if his remarks are on target.

[8:14:41 AM](#)

MS. MELLOTT said the division would need to develop regulations to require someone who has a license that is issued for a period of less than five years to submit proof of extension of his/her legal presence at time of renewal.

REPRESENTATIVE ISAACSON observed that under HB 1, only certain people would need to be asked for proof of legal presence, and he questioned whether that would be discriminatory.

MS. MELLOTT reiterated that under HB 1, the division would be authorized to adopt regulations to carry out statute. She deferred the question regarding discrimination to the division's attorney.

[8:16:38 AM](#)

CHAIR LYNN asked, "What does the DMV do now with those same kind of documents?"

MS. MELLOTT responded that the DMV looks at those documents every day; however, once a person receives an original license, he/she never again has to show that proof document again. She stated that it is not uncommon for people to come into the DMV with documents that are about to expire, but are valid at the time they bring them in.

[8:17:34 AM](#)

REPRESENTATIVE GATTIS asked how many driver's licenses are issued to people with visas in Alaska.

MS. MELLOTT said she does not know if the division documents its records in a way that would facilitate her giving an answer today. In response to a request from the chair, she estimated that the division issues several driver's licenses per day to people with visas.

[8:18:09 AM](#)

REPRESENTATIVE MILLETT asked for conformation that the sole purpose of the proposed bill is to align the expiration of both the driver's license and a person's visa to the same date.

MS. MELLOTT answered that is correct.

8:18:45 AM

REPRESENTATIVE HUGHES noted that the committee had received correspondence expressing concern about the DMV redoing federal documentation; however, she offered her understanding that the DMV already deals with that type of paperwork. She asked for further information regarding how many types of documents the division sees and how clear the expirations dates on them are.

MS. MELLOTT replied that the DMV staff undertakes extensive fraudulent document training and addresses daily a wide variety of documents issued by [the U.S. Citizen and Immigration Services (USCIS)]; therefore, the only change under HB 1 would be the expiration date on the driver's license.

8:19:45 AM

MS. MELLOTT, in response to Representative Gattis, said HB 1 would have no effect on international licenses. In response to a follow-up question, she stated that the DMV does not accept international licenses as proof documents when issuing Alaska driver's licenses.

CHAIR LYNN related that when he served in the military, he was issued an international driver's license.

8:21:32 AM

REPRESENTATIVE HUGHES asked if the original application [for a driver's license] asks for a person's citizenship.

MS. MELLOTT responded that other than a question about U.S. citizenship geared toward voter registration, the answer is no. She said the division can determine by the documents presented whether a person is a U.S. citizen.

REPRESENTATIVE HUGHES asked, "So, ... those folks who currently have the five-year licenses, who have already expired past their expiration date, as far as when they should be here, they could apply by mail and, based on the fact that they had a prior license, would there be anything that would be red-flagged on

your end from the original application where they indicated "no" - that they were not a U.S. citizen - so that then you would request additional documentation?"

MS. MELLOTT said the DMV does ask for date of birth, and from that could ask for additional information.

REPRESENTATIVE HUGHES asked Ms. Mellott if she foresees the division developing regulations such that it would require additional information from those applicants who indicate a birth place outside the U.S. or do not indicate that they are a U.S. citizen and are applying for a five-year license.

MS. MELLOTT indicated that would be a possibility. In response to a follow-up question, she said that after passing a legal presence bill, many states have required any applicant who is not a citizen of the U.S. to bring documentation into the entity that issues driver's licenses to determine if the person has naturalized at that point or received a permanent resident card or is still in temporary visitor status or does not have valid documents to be in the U.S.

REPRESENTATIVE HUGHES asked Ms. Mellott to clarify that her expectation is the division would request additional information from someone who is not a U.S. citizen, as other states have done.

MS. MELLOTT answered that she thinks that would be a best practice on the part of the division.

[8:25:14 AM](#)

CHAIR LYNN asked Ms. Mellott to confirm his understanding that HB 1 does not change policy regarding who gets a license; it only makes a change related to expiration date.

REPRESENTATIVE HUGHES answered that is correct.

[8:25:26 AM](#)

REPRESENTATIVE ISAACSON said he does not understand how affective HB 1 could be in providing the division the ability of issuing a driver's license for less than five years when it is possible for a [non-U.S. citizen] in possession of a document allowing him/her to be in the U.S. for two years to simply renew his/her driver's license at the end of the two years by mail or over the Internet, thus ending up with a five-year driver's

license, with no requirement to verify legal presence in the U.S. to get that license.

[8:26:54 AM](#)

MS. MELLOTT responded that currently under statute the division has no ability to issue any license for less than five years, unless it is a temporary license. She said the proposed legislation would give the division the ability to adopt regulations to issue licenses that for some reason should have an expiration date of less than five years.

REPRESENTATIVE ISAACSON remarked that those licenses could still be renewed and "circumvent the original purpose of having less than five years."

MR. WOOLFE offered his understanding that in a case where a person's legal presence document expires in two years, that person's driver's license would also expire, and in order to renew the driver's license, he/she would need to provide documentation - for example, a student visa - showing his/her legal presence has been extended.

[8:30:08 AM](#)

AMY ERICKSON, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), in response to Representative Millett, confirmed that the Division of Motor Vehicles supports HB 1.

CHAIR LYNN noted that there is a zero fiscal note attached to the proposed legislation.

[8:30:38 AM](#)

EARLING JOHANSEN, Assistant Attorney General (AG), Labor & State Affairs Section, Civil Division - Anchorage, Department of Law (DOL), stated that as an attorney who represents the DMV, he sees no constitutional issues with HB 1. He relayed that he had done a legal check related to legal presence and driver's licenses and found no cases across the country that had challenged "this." He said the issue is not one of driver's license denial; the applicants would be issued a license consistent with the term of their authorized stay. He said HB 1 is not a bill that challenges the federal government's right to regulate immigrations. He concluded, "The DMV's activities based on this bill follow the federal determinations."

[8:32:12 AM](#)

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 1.

[8:32:39 AM](#)

REPRESENTATIVE MILLETT removed her prior objection.

[8:32:54 AM](#)

REPRESENTATIVE KELLER moved to report HB 1 out of committee with individual recommendations and the accompanying zero fiscal note. He commented that the bill would be heard by the House Judiciary Standing Committee. There being no objection, HB 1 was reported out of the House State Affairs Standing Committee.

[The committee returned to HB 1 later in the hearing.]

[8:33:31 AM](#)

The committee took an at-ease from 8:33 a.m. to 8:37 a.m.

#### **HB 52-PFD ALLOWABLE ABSENCE**

[8:37:10 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 52, "An Act relating to allowable absences from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date."

CHAIR LYNN announced that he would change the usual order that the committee hears bills to accommodate a person calling from Japan to testify.

[8:37:34 AM](#)

BRIAN ROSS stated that he is a life-long resident of Alaska. He referred to a letter he wrote to the legislature, [dated January 28, 2013, included in the committee packet], in support of HB 52. He said he has been working to remove the 10-year rule that applies to the permanent fund dividend (PFD) and Alaska career military personnel. He relayed that he has been involved in court cases and appeals all the way to the Alaska Supreme Court, but he has been continually denied the PFD. He expressed hope

that his personal story and his thoughts on how the 10-year rule unfairly penalizes those in the military will convince [the legislature] to support HB 52. He said, "I want to be able to point out that the testimony I provide today is [in] no way endorsed by the [U.S.] Department of Defense or constitutes an endorsement by the Marine Corps; ... I'm testifying as a private citizen, too."

[8:39:38 AM](#)

REPRESENTATIVE ERIC FEIGE, Alaska State Legislature, sponsor, introduced HB 52. He noted that similar bill language made it most of the way through the process in the 27th Legislative Session as House Bill 190. He said a few years ago, the legislature received an e-mail from Lieutenant Commander Tiko Crofoot, a Navy Seal currently active in the fight against terrorism worldwide and an Alaskan who has been stationed outside of Alaska for his entire military career. Like the previous testifier, Lt. Commander Crofoot is a career military officer who has been an Alaska resident from the beginning of his career and is running up against the statutory 10-year limitation in receiving a PFD, even with an allowable absence away from the state.

REPRESENTATIVE FEIGE said the state cannot single out a particular class of people to receive one benefit or another. He explained that the proposed legislation focuses on a person's intent to return to Alaska after an allowable absence. Currently, he related, there are 16 allowable absences in statute for which the Permanent Fund Division assumes that the recipient intends to return to Alaska after the first five years. He said those allowable absences fall under certain categories: service to the nation or the state in the case of military service; being the spouse of a military member; leaving the state for medical reasons or to take care of a sick relative; and being out of state for education purposes. Under HB 52, a person would have to prove he/she intends to return to Alaska in order to qualify for a PFD beyond the current allowable absence period. He said the proposed legislation would incorporate current regulation into statute, which would give more specific direction to administrative law judges for the appeals process. Further, it would remove the 10-year limit on being able to receive a dividend because of an allowable absence, which, for example, would make it possible for someone to pursue a military career and continue to receive the benefits that all Alaska residents receive in the form of the PFD.

[The committee returned to HB 52 later in the hearing.]

[8:44:01 AM](#)

The committee took an at-ease from 8:44 a.m. to 8:46 a.m.

**HB 1-REQUIREMENTS FOR DRIVER'S LICENSE**

[8:45:49 AM](#)

CHAIR LYNN returned the committee's attention to HB 1.

[8:45:54 AM](#)

REPRESENTATIVE KELLER moved to rescind the committee's previous action Committee in moving HB 1 out of committee. There being no objection, it was so ordered.

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for HB 1, Version 28-LS0008\C, Strasbaugh/Martin, 1/23/13, as a work draft, and to "make the recent vote on passage of the bill from committee apply to Version" [C]. There being no objection, Version C was before the committee and CSHB 1(STA) was moved out of the House State Affairs Standing Committee.

CHAIR LYNN inquired, "And the previous testimony we heard will apply to this current version. Is that correct?"

REPRESENTATIVE KELLER responded, "That's correct."

**HB 52-PFD ALLOWABLE ABSENCE**

[8:46:35 AM](#)

CHAIR LYNN returned the committee's attention to HB 52.

[8:46:36 AM](#)

MICHAEL PASCHALL, Staff, Representative Eric Feige, Alaska State Legislature, presented HB 52 on behalf of Representative Feige, sponsor. He gave a PowerPoint presentation to illustrate how allowable absences have been handled by the state since the inception of the PFD. He said as of 1982, the PFD had six specific allowable absences, [including] the ability of the commissioner to establish an allowable absence by regulation. In 1997, there were four allowable absences added to statute,

the ability of the commissioner to add allowable absences through regulation remained in statute, and the definition of a state resident was adjusted, incorporating other portions of Alaska statute. He noted that AS 01.10.055 pertains to a standard condition of residency in the state.

MR. PASCHALL relayed that in 1998, statutes were essentially revamped, but the definition of residency remained the same. He indicated that allowable absences were reworded to address legal issues, but said that most of the allowable absences did not actually change in terms of what they allowed. He said there were additional items added as allowable absences, including the eligibility of someone to accompany someone else who is on an allowable absence. New language was added to statute to clarify that no one could be absent from the state for more than 180 days unless he/she qualified for one of the current 12 allowable absences. If an individual claimed allowable absence for educational reasons, they could only be absent 120 days outside of that allowable educational allowance. Further, once any of the other allowable absences ended, an individual covered under one of them could only be absent for an additional 45 days. In order to claim an allowable absence, a resident had to be a resident for six consecutive months before leaving the state. Mr. Paschal said this was an addition that occurred prior to 1998. Anyone on an allowable absence could only receive that allowable absence for ten years, except for members of Congress, their staff, and their families. He pointed out that this provision did not impact anyone until [2008].

MR. PASCHAL stated that what appears to be an unintended consequence from the point of view of the sponsor is that someone in the military serving Alaska loses his/her dividend. He offered his understanding that there has been only one individual who qualified for the dividend after the ten years under AS 43.23.008(c).

[8:51:40 AM](#)

MR. PASCHALL said 2012 saw the addition of allowable absences for those: accompanying an individual serving in the military, such as a spouse, a minor dependent, or a dependent child; serving under [foreign or] coastal articles of employment in the U.S. Merchant Marine; serving as a volunteer in the Peace Corps; training or competing as a member of the U.S. Olympic Team; and participating in a student fellowship. Further, Mr. Paschall related, the definition of "family member" was added.

[8:53:15 AM](#)

MR. PASCHALL said under HB 52, the 10-year rule, under Section C in statute, would be removed.

[8:53:43 AM](#)

MR. PASCHALL, in response to Representative Millett, offered his understanding that members of Congress and their family members were exempted from the ten-year rule in 1998, when the original 10-year rule was put in place.

[8:54:28 AM](#)

MR. PASCHALL said under HB 52, statute would require that the state assume an individual who has been out of the state for more than five years does not intend to return to Alaska; presently that assumption is outlined only under regulations. He stated that the bill sponsor believes that putting the requirement in statute will make it more effective. Furthermore, HB 52 would change from regulation to statute the 30-day rule that requires a person to return to the state. In response to Representative Keller, he said the sponsor did not choose to make many significant changes, and the 30-day rule has to do with an individual who is out of state for a certain number of days. He deferred to a representative from the division to offer more specific details. He said the five-year rule pertains to the original five years in which there are less requirements for a person to prove his/her intent to return to the state. In response to Representative Isaacson, he reiterated that the five-year rule is presently in regulation. He said with most allowable absences, after five years' time the person - for example, a college student - should have been able to return to Alaska. In response to Representative Isaacson, he indicated that the division would be able to evaluate whether or not a person, who had continued on to graduate school with plans to matriculate, had no plans to become a life-long student.

[8:57:38 AM](#)

REPRESENTATIVE KELLER directed attention to language on page 3, line 23, of HB 52, which read, "the department shall consider", and he asked if that language was taken from regulations. He questioned whether the legislature should "put some weight on these."

[8:58:10 AM](#)

MR. PASCHALL said HB 52 adopts current regulation, with some adjustments to "make it a little stronger." He said the criteria considers how long someone has been absent from the state compared to the length of time he/she was physically present in the state. For example someone who was in the state for 18 years prior to being absent for 5 years might have much stronger ties to the state than someone who was in the state for 3 years before being absent for 5 years. Another consideration is the frequency and duration of return trips to the state beyond the minimum 30-day required days and whether the individual is making choices that would improve his/her ability to return to the state versus decisions that keep him/her out of the state, such as the previous example of the life-long out-of-state student.

MR. PASCHALL listed the following demonstrations that an individual has established ties with the state or another jurisdiction: maintenance of a home; payment of resident taxes; registration of a vehicle; registration to vote and voting history; acquisition of a driver's license, business license, or professional license; and receipt of benefits under a claim of residency in the state or another jurisdiction. He said the sponsor and the division envisions a scoring system that could be used by the division in determining a person's intent to return to Alaska.

[9:00:34 AM](#)

REPRESENTATIVE HUGHES suggested consideration be given to those who have never been a resident of another state, because they essentially would be "without a home state" when "they hit that 10-year mark under the current law."

[9:01:29 AM](#)

MR. PASCHALL clarified, "This isn't residency in Alaska; it's residency for the purposes of a permanent fund dividend. So, they don't become a nonresident after 10 years." Regarding Representative Hughes' suggestion, he said he thinks the division would have the authority to consider whether someone had ever been a resident of another state as part of its criteria, but it may be necessary to consider the equal protection clause in the Constitution [of the State of Alaska].

REPRESENTATIVE HUGHES said she wondered about "that very same thing."

[9:02:23 AM](#)

MR. PASCHALL said the last criteria under HB 52 would address employment and career choices and provide some flexibility to the division in that regard.

[9:02:55 AM](#)

REPRESENTATIVE ISAACSON directed attention to language shown in the PowerPoint, which read: "(5) the priority that the individual gave the state on an employment assignment preference list, including a list used by military personnel;" He asked, "Does the military give the dream list to the state?"

MR. PASCHALL offered his understand that that is correct or that the individual has to provide some type of documentation to the division. He deferred to the division for further clarification of its procedures.

REPRESENTATIVE ISAACSON questioned whether the language would create an expectation by some military members that they could have documentation given to them by the U.S. Department of Defense (DoD) that the DoD might not release.

MR. PASCHALL said this language is already in regulations, and he does not think putting it into statute would cause a problem for the division in terms of verification.

[9:03:59 AM](#)

REPRESENTATIVE HUGHES observed that it was contact from military personnel that instigated the proposed legislation. She asked, "Is there any other type of area ... that might be impacted by this change to get beyond that 10-year mark other than military?"

MR. PASCHALL answered that he does not want to speculate too much, because what is being considered here is not "whether they are on an allowable absence," but "whether they are likely to return to the state." He said that the sponsor does not want to exclude a particular criterion "for that purpose." He said there also have been questions about equal protection as it relates to exclusions. He related that the Alaska Supreme Court case, Ross v. State, "did change that ... a little bit," but said, "... we didn't feel like we wanted to go back and make changes to fill and raise that question."

REPRESENTATIVE HUGHES asked if those who reached the 10-year mark in the past and have maintained their residency would, under HB 52, be able to apply for the 2013 PFD.

MR. PASCHALL directed attention to Section 4 of the proposed legislation, which addresses application for the 2013 PFD for certain individuals. He said those who are ineligible because of the 10-year rule, which would be repealed under HB 52, would have 90 days from enactment of the proposed legislation to apply.

REPRESENTATIVE HUGHES asked for clarification that someone who, for example, reached the 10-year mark in 2008, but would otherwise be eligible, would be eligible to apply during that 90-day period.

MR. PASCHALL answered that that is the intent of the proposed legislation.

[9:06:51 AM](#)

REPRESENTATIVE HUGHES said she had not previously understood that. She declared a conflict of interest, because HB 52 could result in direct benefit to her adult son who is active military and hit his 10-year mark in 2009.

[9:07:18 AM](#)

MR. PASCHALL, in response to Representative Isaacson, said the exclusion for members of Congress, their staff, and their families, has applied to only one individual. In response to a follow-up question, he said the number of military personnel who could be affected by HB 52 may be slightly over 100.

[9:08:06 AM](#)

REPRESENTATIVE ISAACSON directed attention to the following language in the PowerPoint: "(6) whether the individual made a career choice or chose a career path that does not allow the individual to reside in or return to the state." He asked, "By doing this, does this allow us to actually expend more money than we're anticipating to give folks who have the idea that they're coming back another 10 years to collect the permanent fund [dividend] only to find them retiring at their last duty station and not returning anyway?"

MR. PASCHALL stated that the intent under HB 52 is that over time it would become increasingly more difficult for an individual to show his/her intent to return. He said a person who has been in the military for 18 years should have some reason to return to Alaska and should be able to illustrate that reason. For example, the person may have purchased a retirement home in the state. He said the focus under HB 52 is for the division to look for proof that a person intends to come back to the state.

[9:10:11 AM](#)

REPRESENTATIVE ISAACSON noted that some states require that a person register his/her vehicle with that state. He asked how that might affect the division's decision, when that person also may not own a home in Alaska. He questioned whether this may be getting too complicated for the division.

MR. PASCHALL responded that the division is already using "these items" through regulation, and the intent of the proposed legislation is to give the division "the opportunity to score these items." The idea is to give the division the opportunity to develop something that is more objective and less subjective in the evaluation process. Regarding vehicle registration, he offered his understanding that no member of the military on active duty is forced to change his/her car registration or residency.

CHAIR LYNN offered his understanding that the bill sponsor was nodding his head in the affirmative.

REPRESENTATIVE ISAACSON clarified, "Not change their state of residency, but they may be required to change their vehicle registration." He said that happened to him.

[9:12:14 AM](#)

REPRESENTATIVE MILLETT remarked that under HB 52, the burden of proof would be on the applicant.

MR. PASCHALL responded that is correct. He said the division's responsibility is in ensuring that the documents provided by the applicant have not been falsified.

[9:12:56 AM](#)

REPRESENTATIVE HUGHES noted that there is a zero fiscal note. She questioned whether the workload of the division would be increased under HB 52, and asked how many people would be impacted on an annual basis "if they don't prove that they'd fall off the rolls as far as eligibility."

MR. PASCHALL reiterated that the division is already using most of these criteria; however, he stated, "They sometimes lose on an administrative appeal." He indicated the reason for changing regulations to statute is "so that they're stronger in their presence once it goes to an appeal." He said approximately 13,000 people "in a given year" are beyond the five-year [allowable absence period]. In response to a follow-up question, he said one of the things that cannot be determined is how many people will end up not returning to the state.

9:15:21 AM

REPRESENTATIVE GATTIS referred to the aforementioned language in the PowerPoint: "receipt of benefits under a claim of residency in the state or another jurisdiction;" She offered her understanding that according to this language, a military person living in another state could become a resident of that state for "homestead exemption purposes" and still qualify for the PFD.

MR. PASCHALL clarified that anyone who takes any benefits by claiming residency in another state would lose his/her eligibility to receive the PFD. The PFD program is for qualified residents of Alaska, he said.

REPRESENTATIVE GATTIS noted that her husband is an international airline pilot, and "there was a time that the PFD was not allowed to him because he's gone for 180 days a year or more." She expressed appreciation that the bill sponsor is attempting to "tighten it up for those that are intending to continue being residents and coming back." In response to the chair, she said the issue was cleared up so that her husband is now able to receive the PFD.

9:17:58 AM

REPRESENTATIVE KELLER expressed appreciation to the sponsor for bringing the proposed legislation forward. He again directed attention to language on page 3, line 23 [text provided previously], and asked if it is specific enough. He expressed unease about the subjective nature of the criteria we're laying

out. He said he can see that the division may be comparing one person's coming back to the state 20 times versus someone else's coming back 3 times. He said he would like to hear from Legislative Legal and Research Services that the proposed legislation would not result in litigation for the state.

[9:19:49 AM](#)

HILLARY MARTIN, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, to Representative Keller's stated concern, said she thinks the [division] would have to consider "all of these factors" when looking at an application. She said she is not sure how much tighter the language could be.

[9:21:00 AM](#)

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

[9:21:20 AM](#)

The committee took an at-ease from 9:21 a.m. to 9:23 a.m.

[9:23:24 AM](#)

REPRESENTATIVE KELLER remarked that the House State Affairs Standing Committee is the only committee of referral for HB 52 before it is heard on the House floor.

[9:23:34 AM](#)

REPRESENTATIVE KELLER moved to report HB 52 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 52 was reported out of the House State Affairs Standing Committee.

[9:24:38 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:25 a.m.