

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

January 26, 2016

8:07 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Wes Keller, Vice Chair
Representative Louise Stutes
Representative David Talerico
Representative Liz Vazquez
Representative Max Gruenberg
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 243

"An Act relating to the permanent fund dividend; and relating to a permanent fund dividend for an individual whose conviction has been vacated, reversed, or dismissed or for an individual who has been pardoned because of innocence and wrongful conviction."

- HEARD & HELD

SENATE BILL NO. 9

"An Act repealing the authority to include certain material from a political party in the election pamphlet."

- HEARD & HELD

HOUSE BILL NO. 217

"An Act relating to special request registration plates commemorating the arts; and relating to the Alaska State Council on the Arts."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 243

SHORT TITLE: CRIM. CONV. OVERTURNED: RECEIVE PAST PFD

SPONSOR(S): REPRESENTATIVE(S) LYNN

01/19/16 (H) PREFILE RELEASED 1/15/16
01/19/16 (H) READ THE FIRST TIME - REFERRALS
01/19/16 (H) STA, FIN
01/26/16 (H) STA AT 8:00 AM CAPITOL 106

BILL: SB 9

SHORT TITLE: ELECTION PAMPHLETS
SPONSOR(s): SENATOR(s) MICCICHE

01/21/15 (S) PREFILE RELEASED 1/9/15
01/21/15 (S) READ THE FIRST TIME - REFERRALS
01/21/15 (S) STA, FIN
02/26/15 (S) STA AT 9:00 AM BUTROVICH 205
02/26/15 (S) Heard & Held
02/26/15 (S) MINUTE(STA)
04/14/15 (S) STA RPT 3DP 2NR
04/14/15 (S) DP: COGHILL, HUGGINS, MCGUIRE
04/14/15 (S) NR: STOLTZE, WIELECHOWSKI
04/14/15 (S) STA AT 8:00 AM BUTROVICH 205
04/14/15 (S) Moved SB 9 Out of Committee
04/14/15 (S) MINUTE(STA)
04/16/15 (S) FIN AT 9:00 AM SENATE FINANCE 532
04/16/15 (S) Heard & Held
04/16/15 (S) MINUTE(FIN)
04/16/15 (S) FIN AT 1:30 PM SENATE FINANCE 532
04/16/15 (S) Moved SB 9 Out of Committee
04/16/15 (S) MINUTE(FIN)
04/17/15 (S) FIN RPT 4DP 2NR
04/17/15 (S) DP: MACKINNON, MICCICHE, BISHOP,
HOFFMAN
04/17/15 (S) NR: DUNLEAVY, OLSON
04/18/15 (S) TRANSMITTED TO (H)
04/18/15 (S) VERSION: SB 9
04/19/15 (H) READ THE FIRST TIME - REFERRALS
04/19/15 (H) STA
01/26/16 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 217

SHORT TITLE: SP. REQ. ARTS LICENSE PLATES; COMPETITION
SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

01/19/16 (H) PREFILE RELEASED 1/8/16
01/19/16 (H) READ THE FIRST TIME - REFERRALS
01/19/16 (H) STA, FIN
01/26/16 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

DENEEN TUCK, Staff
Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 243 on behalf of Representative Lynn, prime sponsor.

MARY ELLEN BEARDSLEY, Assistant Attorney General
Commercial and Fair Business Section
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Responded to Vice Chair Keller during the hearing on HB 243.

HILARY MARTIN
Attorney at Law
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 243.

RICHARD ALLEN, Director
Office of Public Advocacy (OPA)
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of OPA in support of HB 243.

WILLIAM B. OBERLY, Executive Director
Alaska Innocence Project
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 243.

JERRY BURNETT, Deputy Commissioner
Office of the Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 243.

SARA RACE, Director
Central Office
Permanent Fund Dividend Division

Department of Revenue (DOR)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 243.

THEDA PITTMAN
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 243.

SENATOR PETE MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced SB 9.

CHUCK KOPP, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Discussed a committee substitute and answered questions during the hearing on SB 9, on behalf of Senator Micciche, prime sponsor.

DAVID BECKER
Pew Charitable Trust
Washington DC

POSITION STATEMENT: During the hearing on SB 9, testified in support of the effort to improve Alaska's voter registration.

JOHN LINDBACK, Executive Director
Electronic Registration Information Center (ERIC)
Stayton, Oregon

POSITION STATEMENT: Offered a status report on ERIC during the hearing on SB 9.

JOANNE BLACKBURN
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 9.

LIBBY BAKALAR, Assistant Attorney General
Labor and State Affairs Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Explained changes made in a committee substitute during the hearing on SB 9.

ACTION NARRATIVE

8:07:50 AM

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Lynn, Keller, Talerico, Kreiss-Tomkins, and Vazquez were present at the call to order. Representatives Gruenberg and Stutes arrived as the meeting was in progress.

HB 243-CRIM. CONV. OVERTURNED: RECEIVE PAST PFD

8:09:28 AM

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 243, "An Act relating to the permanent fund dividend; and relating to a permanent fund dividend for an individual whose conviction has been vacated, reversed, or dismissed or for an individual who has been pardoned because of innocence and wrongful conviction."

[CHAIR LYNN passed the gavel to Vice Chair Keller.]

8:09:40 AM

VICE CHAIR KELLER noted that there was a committee substitute available, and he asked the bill sponsor's staff to explain the changes that would be made by it. He noted there were people available to testify.

8:10:57 AM

DANEEN TUCK, Staff, Representative Bob Lynn, Alaska State Legislature, presented HB 243 on behalf of Representative Lynn, prime sponsor. She said many people mistake HB 243 as a bill written for "the Fairbanks Four," but she explained it was the Fairbanks Four who brought attention to the lack of any law that would [allow a permanent fund dividend for] an individual whose conviction had subsequently been overturned, dismissed, or vacated. She said the sponsor worked during the interim so that this oversight would be corrected.

MS. TUCK, in response to the prime sponsor, discussed the changes the aforementioned committee substitute would, if adopted, make to the original bill version. The first change was the removal from the bill title, and anywhere within the original bill, references to an individual who has been pardoned and references to "pardoned because of innocence and wrongful

conviction". Ms. Tuck explained, "The reason for those removals is that if you pardon somebody, then you're asking the governor to make a finding of innocence. We did not want to do that, because the parties who were pardoned could possibly still have committed the crime, and those are not the ones that we were looking for; we were looking for ones that the courts had overturned, dismissed, vacated, or reversed their cases."

MS. TUCK pointed out specific language [in the original bill version] that would be deleted [under the committee substitute]: "pardoned", from page 1, line 14; "pardon under (i)(2) of this section", from page 2, line 4; the language on page 2, lines 5-7, which read as follows:

(k) When a permanent fund dividend is paid under (i) of this section, the department shall also pay interest at the rate specified in AS 45.45.010 from the date each dividend would have been paid if the individual had been eligible.

MS. TUCK explained it was found that throughout the history of the permanent fund dividend (PFD), no interest had ever been paid out. She offered a scenario wherein parents did not apply for their child's PFD, but within 60 days of turning 18, that child could apply. She said, "Even those types of Alaskans would not get any interest." She indicated that the language was taken out in the interest of fairness.

MS. TUCK said the next change was [the deletion of Section 2, the language of which] she said is on page 2, lines 9-11 [of the original bill], which read as follows:

(k) The Department of Corrections shall provide an application for a permanent fund dividend to any individual in the custody of the Department of Corrections who requests an application, regardless of the eligibility of the individual.

MS. TUCK explained that the sponsor determined the language should be deleted after discussing the issue with the Department of Corrections and finding out "how bad it's handled."

[8:15:03 AM](#)

CHAIR LYNN, regarding the deletion of references to the word "pardon", explained that people are not pardoned unless they were originally found guilty, and the bill is about people who

are innocent. He echoed Ms. Tuck's statement that the proposed legislation was not being introduced to benefit the Fairbanks Four, but for all situations where a mistake was made and a correction needs to be made such that everyone can be treated equitably. He said a person could lose one year of the PFD or eighteen years, and he stated his belief that "there are others out there also who could fall under the parameters of this bill." He offered his understanding that "vacated" means "the thing never happened at all."

[8:16:30 AM](#)

REPRESENTATIVE GRUENBERG directed attention to the phrase, "An Act relating to the permanent fund dividend", in the bill title. He said, "Unless we want it to be used for anything that somebody may think of, we really do need to narrow that down or it will be caught at some point and used."

VICE CHAIR KELLER offered his understanding that Representative Gruenberg was remarking upon the broad nature of the bill title and warning that it could result in "too broad of a range of amendments" as the bill goes through the legislative process.

REPRESENTATIVE GRUENBERG responded, "Yes."

VICE CHAIR KELLER noted that the bill sponsor would like the bill to be moved from committee today, but said he is hesitant to do so. He said that determination would be made after getting the questions of the committee on the table.

[8:17:31 AM](#)

REPRESENTATIVE VAZQUEZ suggested deleting "relating to the permanent fund dividend; and" from page 1, line 1, so that the title would read: "An Act relating to a permanent fund dividend for an individual whose conviction has been vacated, reversed, or dismissed."

[8:18:01 AM](#)

VICE CHAIR KELLER clarified that the committee needed to adopt the committee substitute as a working document before it could entertain amendments to it.

[8:18:25 AM](#)

REPRESENTATIVE GRUENBERG moved [to adopt the proposed committee substitute (CS), Version 29-LS1279\G, Martin, 1/25/16, as a work draft]. There being no objection, Version G was before the committee.

[8:18:43 AM](#)

REPRESENTATIVE VAZQUEZ, in response to Vice Chair Keller, reiterated her suggested amendment, and stated her support of HB 243. She said she had been concerned about the interest rate and the pardon provision, but both provisions would be deleted under Version G.

[8:19:59 AM](#)

REPRESENTATIVE GRUENBERG said, "That's an excellent amendment." Notwithstanding that, he suggested that the committee "wait and see what the final bill looks like, in case something else changes."

[8:20:16 AM](#)

VICE CHAIR KELLER said he was inclined to "let this one soak a little bit." He then questioned why a law is needed to make this change rather than addressing the issue within the court system. He said he thinks there are questions about "the ownership." He said he is not certain whether "these things are untested in court." He asked whether the people that have been wronged have gone to court to ask for relief.

[8:21:01 AM](#)

CHAIR LYNN responded that as far as the Fairbanks Four are concerned, they were trying to get their sentencing vacated and "this is just part of that." He expressed his surprise that the administration had not come forward to address the issue. He reiterated his focus was on fairness. He opined that the issue needs to be addressed and resolved.

[8:21:51 AM](#)

The committee took a brief at-ease at 8:22 a.m.

[8:22:49 AM](#)

VICE CHAIR KELLER suggested there may be testifiers available who could answer his questions.

[8:22:57 AM](#)

REPRESENTATIVE TALERICO said he would like to ask someone with a legal knowledge about a situation in which a judgement may have been vacated, but where there are other charges involved.

CHAIR LYNN offered his understanding that "vacated" means "nothing happened whatsoever."

REPRESENTATIVE GRUENBERG inquired as to how much "this" would cost the Permanent Fund Division.

MS. TUCK said she did not have the answer at present.

[8:24:28 AM](#)

VICE CHAIR KELLER opened public testimony on HB 243.

[8:24:52 AM](#)

MARY ELLEN BEARDSLEY, Assistant Attorney General, Commercial and Fair Business Section, Civil Division (Anchorage), in response to Vice Chair Keller, suggested a criminal attorney would be better equipped to answer questions regarding HB 243.

[8:25:38 AM](#)

HILARY MARTIN, Attorney at Law, Legislative Legal and Research Services, Legislative Affairs Agency, responded to a previous question as to why legislation is necessary to address the issue. She said under current statute a person is not eligible to receive a PFD if he/she has been incarcerated as a result of conviction of a felony or sentenced as a result of a felony. She continued:

You're ineligible for one year, and there's nothing that would let [the Department of] Revenue look back and decide if the conviction was gone that they should get these back PFDs. And so, you just need something in statute to allow that process to happen, because they were ineligible at the time the ineligibility was set, and there's nothing currently in statute to change that.

[8:27:14 AM](#)

VICE CHAIR KELLER said if he experienced a PFD being held back wrongfully, he would be indignant about it. He said it seems like there are fundamental constitutional protections that would be in place when addressing the issue of ownership. He offered his understanding that Ms. Martin had said that the ownership does not happen because of this law, because it's the act of being incarcerated that disqualifies a person.

[8:27:51 AM](#)

REPRESENTATIVE GRUENBERG asked if the bill sponsors were prepared to answer why the bill is necessary.

[8:28:58 AM](#)

RICHARD ALLEN, Director, Office of Public Advocacy (OPA), Department of Administration, testified on behalf of OPA in support of HB 243. He said Alaska is one of a minority of states that does not have "a compensation bill," which he explained is a bill that would pay people who were proven to be wrongfully incarcerated a sum of money per each year they were incarcerated. He said, "It seems to me that the least we can do is give them back their dividends that they would have received had they not been in jail." He said OPA thinks HB 243 is common sense legislation. He concurred with Ms. Martin that legislation is necessary, because currently there is no vehicle to provide those people with the back dividends. He said he supposed people could sue in court to get the money back, but he opined this is a better way to address the issue.

MR. ALLEN, in response to Vice Chair Keller, recollected that about 32 states provide that person is paid a set amount per year for every year that a person was wrongfully incarcerated. He offered his understanding that the lowest yearly remuneration is approximately \$40,000, while the highest, given by the State of Texas, is \$100,000. He said [William B. Oberly] was available to testify, and he surmised Mr. Oberly had those numbers available.

[8:32:36 AM](#)

CHAIR LYNN clarified that HB 243 relates only to the PFD issue. He said there is another issue related to compensation [for those wrongfully accused], but he emphasized that he wanted to keep those issues separate.

[8:33:15 AM](#)

WILLIAM B. OBERLY, Executive Director, Alaska Innocence Project (AIP), stated that AIP is a 501(c)(3) nonprofit organization whose mission is to identify and exonerate wrongfully convicted individuals in Alaska. He said AIP supports HB 243 because "it's the right thing to do." When a person is convicted and the conviction is vacated and the charge is dismissed, it means the person was wrongfully convicted, which means that the person's PFD was wrongfully denied him/her during the period of conviction. He posited that the State of Alaska would want to correct the wrongful denial of the PFD.

MR. OBERLY continued as follows:

And I think it provides some assistance to people who get out of jail or out of prison after a wrongful conviction, who have - in Alaska at this point - nothing else to ... help them when they get out. There aren't the services of someone who's correctly convicted and gets out and is helped by the parole and probation system; there is no compensation provided for the wrongfully convicted. So, this would provide them some ability to get back on their feet. And really the amount is a pittance compared to what the cost to the state is of wrongfully continuing to incarcerate an innocent person.

MR. OBERLY said he agrees with Mr. Allen and [Ms. Martin] that the reason HB 243 is necessary is that there currently is no mechanism to correct this injustice. He said AIP had checked when the Fairbanks Four had been exonerated to see if they could get their PFDs, and there was no way they could do it under current statute. He urged passage of HB 243.

[8:36:20 AM](#)

REPRESENTATIVE GRUENBERG inquired whether someone incarcerated out of state would lose his/her residency and, therefore, lose his/her eligibility for a PFD.

CHAIR LYNN speculated that someone who is incarcerated and sent to an out-of-state facility is sent out of state against his/her will.

REPRESENTATIVE GRUENBERG said that may be true, but he noted there is a specific statute that relates to eligibility for the PFD for those who are out of state. He said he did not recall

the situation wherein a person is incarcerated [out of state] as being on that list.

[8:37:46 AM](#)

REPRESENTATIVE GRUENBERG referred to probate, and asked whether a person who had been incarcerated, then subsequently exonerated, and then dies, would, under the proposed legislation, be allowed his/her estate to claim the PFD. If so, he questioned whether it would be necessary to adopt conforming amendments to Title 13. Further, he questioned whether any conforming changes needed to be made to the conservator statute to have someone appointed to help someone unable to handle the paperwork involved in claiming a PFD.

VICE CHAIR KELLER stated that Representative Gruenberg's questions were now on the record, and he would give the appropriate entities time to respond later.

[8:39:25 AM](#)

REPRESENTATIVE TALERICO questioned whether the bill language should be amended to clarify that when there are multiple convictions [of one individual], all convictions must be vacated.

CHAIR LYNN offered his understanding that a person who had one conviction vacated, but still had one or more other current convictions, would still not be eligible for the PFD because of the pending conviction(s).

REPRESENTATIVE GRUENBERG mentioned language "on line 11" and suggested language should be added to include waiting until after an appeal.

MS. TUCK advised that most of the questions that had been asked could be answered by Jerry Burnett of the Permanent Fund Division.

[8:42:27 AM](#)

VICE CHAIR KELLER reiterated that the committee would hold the bill; therefore, Mr. Burnett could choose to defer responses until the next bill hearing.

[8:42:43 AM](#)

JERRY BURNETT, Deputy Commissioner, Office of the Commissioner, Department of Revenue, introduced Sara Race as the person who could answer questions about costs.

[8:43:29 AM](#)

SARA RACE, Director, Central Office, Permanent Fund Dividend Division, Department of Revenue (DOR), indicated that the total for costs over the last 18 years is \$159.28.

CHAIR LYNN added, "Per person."

REPRESENTATIVE GRUENBERG clarified that he is not asking about the administrative cost, but how much the division anticipates would be distributed to prisoners.

MS. RACE responded that if a person was released from prison after 18 years, "that would be the total that would be administered to that individual."

REPRESENTATIVE GRUENBERG clarified that he wants to know the total amount that would be coming out of the permanent fund.

VICE CHAIR KELLER asked Representative Gruenberg if he was asking for an historical figure rather than trying to project into the future.

REPRESENTATIVE GRUENBERG said he did not think [a projection] could be made easily.

MS. RACE relayed that the division currently holds a reserve for paying out dividend money to individuals who have turned 18, and whose parents did not apply for a dividend. She said last year the amount was about \$900,000 held in a reserve account in anticipation of those individuals coming forward to collect 18 years of unpaid dividends.

[8:46:12 AM](#)

REPRESENTATIVE GRUENBERG suggested that the Department of Corrections or the Department of Law should be able to determine how many individuals have been wrongly convicted. He stated that he does not think it wise to assume that the number and amount related to the people who have turned 18 has anything to do with "the prisoners that are in this situation."

[8:46:53 AM](#)

MR. BURNETT addressed why the proposed legislation is needed. He said there is current regulation, which allows a person whose conviction was vacated to apply within 60 days for a PFD; however, that is only for people who had previously applied for that dividend. He named the two reasons someone is eligible to receive a PFD: he/she meets the residency requirements and applied during the relevant period. The proposed legislation would create [an opportunity] for those people who did not apply. He said the division has already paid dividends to some of the people who have been vacated in the past, because those people had previously applied and met the regulations. He stated that estimating the cost of HB 243 would be complicated, because some of these people will never apply, some will, and some already have and have been paid. He said it is perfectly reasonable for a person not to have applied during an 18-year period.

[8:48:36 AM](#)

MR. BURNETT addressed the previous question regarding people who are incarcerated out of state. He said currently people who are in the custody of the state and living Outside - not those incarcerated, but, for example, children who are getting medical treatment - maintain their eligibility. He stated, "We see this as analogous to that; they're ... in the custody of the state and they no longer will be denied the dividend because they were incarcerated."

MR. BURNETT, in response to Vice Chair Keller, deferred to Ms. Race to answer a question about how the division handles people who are incapacitated and individuals who die during their eligibility period.

MS. RACE said an estate has a certain amount of time to apply for the PFD. She said, "We would run something that's very parallel to that, giving them the opportunity ... [for] their families to come back to us and go through the same process as far as determining eligibility."

[8:50:22 AM](#)

REPRESENTATIVE GRUENBERG indicated that "most of these people are fairly unsophisticated legally" and will require legal assistance to navigate the system. He said, "Otherwise you're going to have people who have been in jail a long time that are fairly disoriented, and they're given a few bucks when they get

out and [will be] trying to find themselves and find some work." He said someone who was wrongfully in jail for 10 years would be owed \$10,000 to \$15,000, and one question that will come up will be pertaining to taxes, which will have to be withheld. Representative Gruenberg expressed concern that people in this possible situation would be able to "make use of this." He said it would take some work to ensure that current statutes are sufficient. He said there would be some cost involved in this, and he hoped there would not be a fiscal note. He said he strongly supports the bill, but would want a legal voice "to be legally sure that that is intended to cover incarcerated people."

[8:53:10 AM](#)

VICE CHAIR KELLER stated that 2016 is the year when the legislature's focus is on the budget. He expressed appreciation to the sponsor for bringing HB 243 forward. He said Alaska has "the people's natural resources," a portion of which is monetized into the General Fund; however, more than 25 percent has been placed into the Alaska Permanent Fund. He said the ownership of the fund is different from the public common ownership of the other monetized natural resources. He said Alaska is unique in this, and the legislature is learning how to handle the issue.

THEDA PITTMAN brought up AS 15.13, Alaska's campaign disclosure law.

VICE CHAIR KELLER asked Ms. Pittman if she had an opinion regarding HB 243.

MS. PITTMAN stated that she supports The Alaska Innocence Project. She said she was not worried about whether or not she would receive her own PFD after spending considerable time in the Lower 48 looking after her nephew, whom she noted is a Vietnam War veteran.

[8:57:35 AM](#)

CHAIR LYNN said the budget is at the top of the list for consideration this session, but he opined that justice and fairness are even more important, and that is what HB 243 is all about. He expressed gratitude for the questions that had been brought forward.

[HB 243 was held over.]

[8:58:38 AM](#)

The committee took an at-ease from 8:59 a.m. to 9:05 a.m., during which time Vice Chair Keller returned the gavel to Chair Lynn.

SB 9-ELECTION PAMPHLETS

[9:04:59 AM](#)

CHAIR LYNN announced that the next order of business was SENATE BILL NO. 9, "An Act repealing the authority to include certain material from a political party in the election pamphlet."

[9:05:23 AM](#)

SENATOR PETE MICCICHE, Alaska State Legislature, as prime sponsor, introduced SB 9. He described an experience when he walked into his voting precinct and noticed an election pamphlet open to an advertisement ("ad"). He said even though the ad was promoting a person he supported, he was "offended by the content of the ad." He stated, "When you walk into ... the polling place with a state-sponsored brochure, you should not be guilty of electioneering; you simply couldn't have it open to that page and be in a polling place."

SENATOR MICCICHE explained that the reason for SB 9 was to remove [political party advertising] from publicly funded election pamphlets. He stated his belief that the intent of the pamphlet is to serve as a source of free, unbiased, in-depth information about current officials, candidates, initiatives, judges, and legislation. The revenue generated to the State of Alaska from advertisements equals less than one percent of the cost of producing and mailing the document; therefore, [doing away with the advertisements] would not be a financial issue for the State of Alaska. He said during every election cycle, people are bombarded with political mailings, flyers, and radio and television ads, and he thinks the act of voting is "almost a sacred right in our country," and it should be "pure of political advertising in the polling place."

SENATOR MICCICHE said the other issue addressed under an available committee substitute for SB 9 is to improve access to and integrity of the State of Alaska voter registration database in order to prevent voter fraud. He indicated that those legislators who work their districts see how inaccurate the

state's voting rolls are. An amendment to the bill would enable the Division of Elections to identify voters who have moved to another address, moved to other states, died, or have duplicate registrations within Alaska's database. Additionally, persons in Alaska who are not yet registered to vote could be identified and provided the information on how to register. He related that current and past administrations have commented on the need for a more accurate voter registration list. Each year the division processes tens of thousands of questioned ballots on Election Day, which he said is a sure sign of the decline in the accuracy of the state's voter database. He stated that an accurate voter list is the bedrock of a smooth election. He deferred to his staff for further comment, and he noted that included in the committee packet was a letter from a past lieutenant governor - the manager of elections for the state. He further indicated that the current lieutenant governor supports [SB 9].

[9:08:54 AM](#)

CHAIR LYNN asked for a description of the changes that would be made under the aforementioned committee substitute.

[9:09:21 AM](#)

CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, discussed the committee substitute to SB 9 on behalf of Senator Micciche, prime sponsor. He echoed the prime sponsor's statement that the proposed legislation would "improve access and database veracity to prevent voter fraud." He said this issue was brought to the attention of Senator Micciche's office during the last interim, and one solution would be to allow member states to partner with Alaska under a confidential services agreement to share information and verify each other's voter registration base, which he indicated would save thousands of dollars.

MR. KOPP, in response to Chair Lynn, clarified that "that was the foundation for the CS that's before you today." He said the CS would amend AS 15.57.055(e), which [would] permit the Division of Elections to match identified information for any voter with information held by the Division of Motor Vehicles and the Department of Revenue's Permanent Fund Division. Mr. Kopp said the second thing that the CS would do is add an exception to the list of exceptions currently under statute that relate to the release of confidential information. That exception would allow the division to share [information] with

an organized group of states for the purpose of ensuring that the voter registration list comprises persons eligible to vote in elections. The sharing of information would take place through a non-profit entity known as Electronic Registration Information Center (ERIC), which would act as a facilitator of the information exchange. He said there are now just over 20 states partnering with Alaska in this endeavor. He noted that David Becker was available to speak to the founding effort to have states partner in this type of information sharing, initially funded by Pew Charitable Trust. He echoed that there was a letter of support from [former] Lieutenant Governor Mead Treadwell. Last, he noted that the chief executive officer of ERIC was available via teleconference.

[9:12:36 AM](#)

CHAIR LYNN said he would entertain a motion to adopt the aforementioned committee substitute, labeled 29-LS0244\W, Bullard, 12/9/15, as a work draft.

REPRESENTATIVE KELLER noted that as the only committee of referral, the onus was on the House State Affairs Standing Committee to get the proposed legislation "right." He asked Mr. Kopp if Mr. Treadwell had expressed support for the original bill version or Version W.

MR. KOPP said the sponsor's office gave Mr. Treadwell Version W, and all supporting documents, and "he drafted his letter based on what he saw we were doing."

[9:13:32 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for SB 9, Version 29-LS0244\W, Bullard, 12/9/15, as a work draft.

[9:13:43 AM](#)

REPRESENTATIVE GRUENBERG objected for the purpose of discussion. He directed attention to the word "state", on page 2, lines 19 and 22, of Version W, and he asked if it is defined or "do you look to the general definition in Title 1?" He explained that in some instances, the word "state" includes places such as Puerto Rico, Guam, and the District of Columbia, and he said those places should be included under the proposed legislation, but may not be included under the term "state" normally. He

indicated that he wanted the intent to be clear in terms of who would be included.

MR. KOPP indicated that "state" referred to "a unit of government within the United States." He said he did not know if that would include those territories, but suggested the question could be answered by a representative from the Department of Law.

[9:14:55 AM](#)

REPRESENTATIVE GRUENBERG removed his objection to the motion to adopt the proposed committee substitute (CS) for SB 9, Version 29-LS0244\W, Bullard, 12/9/15, as a work draft. There being no further objection, Version W was before the committee.

[9:15:07 AM](#)

CHAIR LYNN indicated he had seen the same election pamphlet, which Senator Micciche had described, and he was offended by what he saw in it. He indicated he had sponsored a similar bill. He said the pamphlet is a place for candidates to describe their position on various subjects, but not to attack another candidate. He said in the aforementioned pamphlet, it was his own party that made a vicious attack, and he did not think it was appropriate to do so, because a person reading the pamphlet does not "vote for or against a party." He said he could foresee [attacks] escalating if nothing is done about them.

[9:16:44 AM](#)

REPRESENTATIVE KREISS-TOMKINS offered his support for the bill, which he opined could elevate the level of civic discourse. He said he thinks [Version W] represents common sense and positivity, and he characterized it as being tailored in nature, specifically on page 2, lines 19-20, where it read, "for the purpose of ensuring the accuracy of the state's voter registration list". Regarding the ERIC project, he asked if it is anticipated that there could be cooperation between all 50 states' voter rolls. He said he has been told that some states manage the voter rolls on a county-by-county basis and, because of the way they store their data, may never be able to join ERIC. He explained that he would like to know how integrated all 50 states could become with the project.

[9:18:19 AM](#)

SENATOR MICCICHE said he would encourage all 50 states to convert their manner of record-keeping so that it fits in a nationwide database. He said there are so many other benefits that would be attached to that, from fishing and hunting licenses to voter rights. He deferred to Mr. Kopp for further information.

[9:18:47 AM](#)

MR. KOPP explained that the 20 states that have partnered with ERIC have found that all the information they send to the non-profit group is anonymized; it is encrypted and cross-checked by 20 states to determine if there are any duplicate registrations. He said, "It is through this process that the information is shared perfectly." He said representatives from ERIC are available to explain the security protocol and how the states maintain complete ownership and control of their information. He said although each state's data may look a little different as far as what they are pushing into the system, ERIC looks for as many common variables as possible on the voter registration list.

[9:19:58 AM](#)

REPRESENTATIVE KELLER said he shudders whenever national databases are discussed. He directed attention to language in Version W, on page 2, [lines 21-22], which read, "if the other state or organized group of states agrees to protect the confidentiality of the information." He said the meaning of that could be "quite nuanced and conflicted." He said he understands from language on [page 2], line 8, that the state "may" release the confidential information. He asked if the bill sponsor had considered including language in the proposed legislation that would give Alaska the jurisdiction to set a standard for the confidentiality requirements that would be required before the state would release the information.

MR. KOPP deferred to the representatives from ERIC to speak further to the question, but offered his understanding that the states would sign a common agreement, thus the expectation would be the same for all member states.

[9:21:51 AM](#)

REPRESENTATIVE KELLER expressed concern that "we're giving away any of our responsibility ongoing here to be watching this." He

said it is fine if everyone involved with ERIC agrees, but the permissive language in statute would put this outside of legislative reach.

SENATOR MICCICHE suggested that the committee hear from [Mr. Becker].

[9:22:39 AM](#)

REPRESENTATIVE GRUENBERG noted he does not find a definition of "state" in Title 15; therefore, he said he thinks the committee would look to the definition of "state" in Title 1, which is in AS 01.10.060(a)(13), which read as follows:

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

REPRESENTATIVE GRUENBERG questioned whether Puerto Rico would be considered a territory or a commonwealth, because he indicated it should be included. In response to Chair Lynn, he said Guam and the Virgin Islands are territories.

[9:24:02 AM](#)

REPRESENTATIVE GRUENBERG next noted that under the original bill, [AS 15.58.020(a)(8), 15.58.040, and 15.58.060(b)] would be repealed. He noted that a [two-page handout] in the committee packet shows the language in those statutes that would be repealed. He said he gathers from previous comments that "one of the parties in the last election pamphlet did an attack ad on somebody or something." Referring to the handout again, he noted that the language that would be repealed from AS 15.58.020, pertaining to the contents of a pamphlet, would be "a maximum of two pages of material submitted by each political party;". Furthermore, the language that would be repealed [from AS 15.58.040], he noted, included that "a political party may file [with the lieutenant governor] a maximum of two pages of material", as well as language regarding a requirement to have a disclaimer about who paid for the ad. He offered his understanding that these statutes have been in existence for quite a while, and he questioned whether it would be beneficial and constitutional to allow parties to have material in the election pamphlet, but to disallow attack ads. He said he did not know if the political parties "would like to be able to do

this," and he said it sounds like "everybody's been acting honorably until this one thing came about."

9:26:00 AM

SENATOR MICCICHE responded, "I suppose we could complicate the issue." He said he does not understand why "a political party has a place with candidates and specific issues in our election pamphlet." He said he respectfully disagrees with Representative Gruenberg.

REPRESENTATIVE GRUENBERG said he was just raising the question, but said it sounds like the bill sponsor feels that parties do not have a place in the pamphlet.

9:26:37 AM

CHAIR LYNN voiced that everything in an election pamphlet relates to voting for people or initiatives. He reiterated that people do not vote for a political party; therefore, he questioned why [political parties] would be in the pamphlet in the first place.

SENATOR MICCICHE explained that [the aforementioned handout showing the repealed statutory language] shows "the elimination of all the aspects of the statutes that refer to parties in the brochure." He said he is not a particularly partisan individual, and he speculated that perhaps when the aforementioned ad came out in the pamphlet, opposing parties may have wished they had thought of placing such an ad. He stated, "It's just a matter of time before it turns into a party war in the brochure, and I'm just trying to be preemptive in eliminating that potential."

CHAIR LYNN said it is difficult to "draw the line." He said he has always placed a statement in the election pamphlet when running for office, but knows he cannot place an attack ad; the ad must be about him and not about his opponent. He said, "This was over the line, I think. ... The easiest way to do it is just to take it out until you finally define what's appropriate and what's not appropriate."

9:29:02 AM

DAVID BECKER, Pew Charitable Trust, stated that he leads the Pew Charitable Trust election team in the field to improve the efficiency, cost-effectiveness, accuracy, integrity, and

convenience of elections in the U.S. He noted that he had submitted written testimony [included in the committee packet]. He stated support of the effort to improve Alaska's voter registration rolls by allowing Alaska to join a cross-state consortium like ERIC. He said the team has been working for about a decade and speaks to election officials across the political spectrum and country about the problems and challenges in the field of elections. He said problem with voter rolls is a repeated issue that all states are addressing. He explained that voter rolls are difficult to keep up with, primarily because of mobility: people in America move a lot and election officials cannot keep up with that information. The Pew Charitable Trust built ERIC, which is a 501(c)(3) membership organization.

MR. BECKER specified that Pew Charitable Trust does not own or control the organization; it hands it off immediately to the states that choose to join ERIC. Those states that participate in ERIC govern it, pay for it, and maintain it in every way. Employees exist to support the board of directors made up of the states that have joined ERIC. He said ERIC is a sophisticated data center run off software provided by International Business Machines Corporation (IBM), which allows the 15 states and the District of Columbia that currently participate to obtain better information on whether voter information is out of date because someone has moved or died. He noted that red states and blue states all over the country participate, including states close to Alaska, such as Washington and Oregon.

MR. BECKER said when a state participates, ERIC sends reports to the state to let it know if there is information in its file that indicates that a voter has newer information somewhere else. In other words, a voter may have obtained a driver license in another state or died or submitted a change of address with the United State Postal Service (USPS). The state can then begin the process consistent with federal and state law to update its record. Mr. Becker relayed that to date, ERIC has helped participating states identify about three million voters "who moved from the address in their official voter file," as well as helped states identify 140,000 voters who had died since last voting.

MR. BECKER said it is important to note that although there is a small fee to participate in ERIC, the program saves states more than the amount of the fee, because they no longer have to pay for inefficient list maintenance, and there is a reduction in returned mail and questioned ballots, because ERIC provides

better addresses. He said it is the goal of Pew Charitable Trust that all states eventually join ERIC; the organization has brought on about a third of the states in its three and a half years. Under the Help America Vote Act, all states have been required since 2005 to have a statewide voter registration database. He said there is no state that could not join if it chose to do so today, and he expects more states to join in advance of the 2016 Election, and after that the team will continue to work to "document ERIC's benefits and encourage states to join."

[9:33:06 AM](#)

REPRESENTATIVE TALERICO stated his support for the effort being made and for [Version W].

[9:33:39 AM](#)

REPRESENTATIVE KELLER asked if the decision as to whether Alaska would join ERIC would be an administrative one made by the Division of Elections.

MR. BECKER replied that he is not an expert on Alaska's law, so he does not know whether legislation would be required in order for Alaska to join ERIC. He relayed that of the many states with which the team is working to encourage membership, some would require legislation while others would not.

[9:34:51 AM](#)

SENATOR MICCICHE offered his understanding that legislation is necessary in order to share voter data with other states [via ERIC].

[9:35:36 AM](#)

JOHN LINDBACK, Executive Director, Electronic Registration Information Center (ERIC), offered a status report on ERIC. He listed the following states that are currently members: Washington, Oregon, Utah, Colorado, Nevada, Minnesota, Illinois, Louisiana, Alabama, Pennsylvania, Rhode Island, Connecticut, Virginia, Delaware, Maryland, and Washington, D.C. He explained that when states submit their data and ERIC reports back to those states, it enables the member states to act on the information in accordance with federal and state laws. Members of ERIC reach out to voters that have moved out of state to request that they update their voter registrations or provide

permissions to cancel their registrations in their former states. He said acting on that data also protects states from "opportunities for voter fraud." Additionally, members reach out to the unregistered with information on how to register.

MR. LINDBACK stated that based on the experience of other states, an ERIC projection anticipates about 38,000 voters that have moved within Alaska and have failed to update their registrations; about 8,200 voters that have moved out of Alaska, but still have their voter registrations on the Alaska rolls; about 1,500 deceased voters still on the Alaska voter registration list; about 900 individuals with duplicate registrations on the Alaska voter registration list; and about 195,000 Alaskans who are not yet registered to vote.

MR. LINDBACK stated that the benefits to Alaska in having a membership to ERIC are potentially huge and could result in considerable cost savings. One example: In the 2014 state election, Alaska issued almost 28,000 questioned ballots, which extends the count well after Election Day. The vast majority of those ballots cannot be counted in full. He said the processing for questioned ballots takes days, and close races "are held in suspense for unreasonable lengths of time." He said a more accurate voter list means that substantial numbers of those voters would cast a ballot on Election Day, because they would be updating their registration sooner rather than later. He said the processing time following the election for dealing with questioned ballots would be substantially reduced. He concluded, "I just wanted to provide that as ... one example of the benefit of joining ERIC."

[9:39:39 AM](#)

REPRESENTATIVE KELLER said he would assume that ERIC would carry the liability for any security breach of its system.

MR. LINDBACK answered yes; the ERIC membership agreement includes provisions such that if ERIC is at fault or responsible for a breach in its system, it will indemnify the members for any costs associated with that breach.

[9:40:30 AM](#)

JOANNE BLACKBURN stated her belief in the constitutional right of economic association, and she appreciates to power that is in Alaska's economy as a relatively new state. She said, "I dislike participating in organizations that are against

everything I believe in, and it's antithetical to all that I believe in to place my personal information in an organization such as ERIC." She explained that she distrusts "mega data" and does not appreciate "individuals from different parts of the state that intend to coopt my thinking so as to cause my information to be available to the 1 percenters - to strangers to me." She said she does not think that is good public policy, and she stated that she would appreciate the committee's taking into consideration "that there are opposite views."

MS. BLACKBURN said she recognizes that Alaska's Division [of Elections] does a good job and takes pride in the work done; the division watches for obituaries "and that sort of thing." She opined that "this is not a huge problem in Alaska," with half the state's population living in Anchorage. She reiterated the positive view of the method by which [election rolls] are currently kept in Alaska. She opined that "this" is extremist, and she does not appreciate fees being given to organizations that stand for things in which she, herself, does not believe. She reemphasized her opposition to contributing to "mega data" against her expressed will. She offered her understanding that there are many who share a similar viewpoint to her own and surmised that they may be at work currently [and not able to testify]. She stated that she would appreciate if the committee "would put this on the back burner."

[9:43:40 AM](#)

REPRESENTATIVE KELLER moved to adopt Amendment 1, labeled 29-LS0244\W.1, Bullard, 1/26/16, which read:

Page 2, following line 23:

Insert a new bill section to read:

"* **Sec. 3.** AS 28.15.151(f) is amended to read:

(f) Except as provided otherwise in this section **and in AS 15.07.195**, information and records under this section are declared confidential and private."

Renumber the following bill section accordingly.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion.

[9:44:03 AM](#)

REPRESENTATIVE KELLER noted that he moved Amendment 1 at the request of the sponsor; therefore, he deferred to the sponsor's staff to elaborate upon the proposed amendment.

9:44:08 AM

MR. KOPP suggested that the Department of Law was present to address Amendment 1.

9:44:46 AM

LIBBY BAKALAR, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law (DOL), stated that the proposed Amendment 1 is a cross reference to the [Division] of Motor Vehicle's (DMV's) data, which is required to be shared, via elections. She said the reason Mr. Decker and Mr. Lindback mentioned that other states require legislation for this project is because ERIC is organized as a 501(c)(3), and there is not currently existing statutory authority for [Alaska] to participate in a 501(c)(3) "without this cross reference." She stated that one of the things ERIC requires is DMV data via the Division of Elections, and Amendment 1 would tweak Title 28 to make explicitly clear that [the State of Alaska] has the authority to share the data that the Division of Elections gets from DMV with participating states under the ERIC project.

REPRESENTATIVE KELLER directed attention to the phrase "declared confidential and private" in the proposed Amendment 1, and he asked who would make that declaration.

MS. BAKALAR answered DMV, within the Department of Administration.

9:47:00 AM

REPRESENTATIVE KELLER said his concern within the bill itself is that the qualifier is whether the other state agrees to keep the information confidential. He asked, "Is that the intent here? Because I see this as leading the legislature completely out of it, as far as setting the standard for the confidentiality. You know, in other words it just presumes that it's going to happen." He indicated that this makes him nervous.

MS. BAKALAR deferred to Mr. Lindback or Mr. Becker to speak to the security of the data. She said she knows a number of states have joined the project, and DOL concluded, in 2011, that a statutory amendment would be necessary because of "the structure of the organization under which the states are resting."

[9:48:21 AM](#)

REPRESENTATIVE KELLER said he is not calling into question the assurance about the security of ERIC, as given by the bill sponsor, and Misters Lindback and Becker. He questioned, "Do we really want ... to leave it there?" He questioned what would happen in 10 years.

MR. KOPP said it is helpful to remember that all the member states serve as the board of directors; therefore, the states have complete control over any confidentiality concerns.

REPRESENTATIVE KELLER responded that that is precisely his concern, "because the membership into ERIC would not be the policy making body; it would be the executive branch of the State of Alaska, with this action."

[9:49:46 AM](#)

CHAIR LYNN announced his intention to hold SB 9 in order to address unanswered questions. He offered that the proposed Amendment 1 could come to a vote at this or the next meeting.

REPRESENTATIVE KELLER stated his preference to address it now.

[9:50:14 AM](#)

CHAIR LYNN asked who had objected to the proposed Amendment 1.

REPRESENTATIVE KELLER offered his understanding that no one had objected.

CHAIR LYNN announced that with no further objection, Amendment 1 was adopted. [Representative Gruenberg had objected to Amendment 1, for the purpose of discussion and was treated as withdrawn.]

[9:50:54 AM](#)

REPRESENTATIVE GRUENBERG asked if the ERIC framework is considered a compact.

MS. BAKALAR answered, "I think it's just an agreement as many agencies enter into; I don't know that it's technically a compact." She deferred to Mr. Kopp.

[9:51:33 AM](#)

MR. KOPP said he thinks Ms. Bakalar is correct. He said there is a strict statutory definition for what is an interstate compact. In response to Representative Gruenberg, he clarified that he does not think that [ERIC] is a compact. To Representative Keller's concern, he stated that "the same folks" that are currently ensuring the confidentiality of data would continue to be in charge of that confidentiality in the future: the Division of Elections and elections directors of the states. He concluded, "So, we're not changing anything administratively that's already in the law."

[9:52:22 AM](#)

SENATOR MICCICHE added, "In fact, none of the departments in the state that share information outside of the borders of this state are controlled by elected officials; they are all administrative, whether it's law enforcement or the courts or others." He said he would love to have that level of control, but "we don't have it anywhere in our process." He stated that people might have an idea of the integrity of Alaska's voter rolls, but he emphasized that the inaccuracies exist and are difficult for the department, and "this will assist in that effort." He indicated there are people who have died over ten years ago that are still listed on the voter rolls. He said this is a tough job for the Division of Elections, whose staff does the best job possible. He reiterated that the proposed legislation would help.

CHAIR LYNN announced that SB 9 was held over.

HB 217-SP. REQ. ARTS LICENSE PLATES; COMPETITION

[9:53:37 AM](#)

CHAIR LYNN announced that the final order of business was HOUSE BILL NO. 217, "An Act relating to special request registration plates commemorating the arts; and relating to the Alaska State Council on the Arts."

CHAIR LYNN offered his understanding that a committee substitute was available for HB 217, and he asked the bill sponsor to address it.

[9:54:11 AM](#)

REPRESENTATIVE KREISS-TOMKINS, as sponsor of HB 217, indicated that an available committee substitute (CS) would modify the cost in the original bill from \$150 to \$35 for the specialty license plate.

[9:54:31 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS), Version 29-LS0999\E, Martin, 1/21/16, as a work draft. [There being no objection, Version E was before the committee.]

REPRESENTATIVE KREISS-TOMKINS described HB 217 as "American Idol meets Alaska license plates." He relayed that under HB 217, every four years the Alaska State Council on the Arts (ASCA) would hold a state-wide competition for license plate design that best embodies the spirit, beauty, or landscape of Alaska. He said those who would be able to submit designs could include Alaskan artists such as Byron Birdsall or Ray Troll. The designs would be adjudicated by a jury assembled by ASCA, then Alaskans at large could vote for a winning design from the finalists' works. The winning design would go on a limited edition run for four years, and Alaskans could choose to buy a limited edition plate during the four years of its run. After that, the process would be repeated.

[9:56:19 AM](#)

REPRESENTATIVE KELLER moved to rescind the committee's action in adopting Version E as a work draft.

[9:56:26 AM](#)

REPRESENTATIVE GRUENBERG objected to ascertain that he had received all paperwork in question, then removed his objection. There being no further objection, the committee's action in adopting Version E was rescinded.

[9:56:36 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS), Version 29-LS0999\N, Martin, 1/25/16, as a work draft. There being no further objection, Version N was before the committee.

[HB 217 was held over.]

9:57:12 AM

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:57 a.m.