

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

May 9, 2017

3:05 p.m.

**MEMBERS PRESENT**

Representative Jonathan Kreiss-Tomkins, Chair  
Representative Gabrielle LeDoux, Vice Chair  
Representative Chris Tuck  
Representative Adam Wool  
Representative Chris Birch  
Representative DeLena Johnson  
Representative Gary Knopp

**MEMBERS ABSENT**

Representative Andy Josephson (alternate)  
Representative Chuck Kopp (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 173

"An Act establishing the Alaska Climate Change Response Commission; relating to the powers and duties of the Alaska Climate Change Response Commission; establishing the climate change response fund; and relating to the surcharge on oil produced in the state."

- MOVED CSHB 173(STA) OUT OF COMMITTEE

HOUSE BILL NO. 152

"An Act relating to the organized militia; and relating to the authority of the adjutant general."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 173

SHORT TITLE: CLIMATE CHANGE COMMISSION

SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

03/10/17	(H)	READ THE FIRST TIME - REFERRALS
03/10/17	(H)	STA, RES, FIN
04/11/17	(H)	STA AT 5:30 PM BARNES 124
04/11/17	(H)	Heard & Held

04/11/17 (H) MINUTE(STA)  
05/04/17 (H) STA AT 3:00 PM GRUENBERG 120  
05/04/17 (H) Heard & Held  
05/04/17 (H) MINUTE(STA)  
05/09/17 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 152

SHORT TITLE: ORGANIZED MILITIA; AK ST. DEFENSE FORCE  
SPONSOR(s): MILITARY & VETERANS' AFFAIRS

03/06/17 (H) READ THE FIRST TIME - REFERRALS  
03/06/17 (H) MLV, STA  
03/14/17 (H) MLV AT 1:00 PM GRUENBERG 120  
03/14/17 (H) -- MEETING CANCELED --  
03/23/17 (H) MLV AT 1:00 PM GRUENBERG 120  
03/23/17 (H) Heard & Held  
03/23/17 (H) MINUTE(MLV)  
03/30/17 (H) MLV AT 1:00 PM GRUENBERG 120  
03/30/17 (H) Heard & Held  
03/30/17 (H) MINUTE(MLV)  
04/04/17 (H) MLV AT 1:00 PM GRUENBERG 120  
04/04/17 (H) Moved CSHB 152(MLV) Out of Committee  
04/04/17 (H) MINUTE(MLV)  
04/05/17 (H) MLV RPT CS(MLV) 3DP 2DNP 1NR  
04/05/17 (H) DP: SPOHNHOLZ, PARISH, TUCK  
04/05/17 (H) DNP: REINBOLD, SADDLER  
04/05/17 (H) NR: LEDOUX  
05/09/17 (H) STA AT 3:00 PM GRUENBERG 120

**WITNESS REGISTER**

REPRESENTATIVE ANDY JOSEPHSON

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on HB 173, as prime sponsor.

BOB DOEHL, Deputy Commissioner

Department of Military & Veterans Affairs (DMVA)  
Joint Base Elmendorf-Richardson (JBER), Alaska

**POSITION STATEMENT:** Testified in support of CSHB 152(MLV).

JOHN JAMES, Colonel, Commander

Alaska State Defense Force (ASDF)  
Joint Base Elmendorf-Richardson (JBER), Alaska

**POSITION STATEMENT:** Testified in support of CSHB 152(MLV).

CHRISTOPHER WEAVER, Lieutenant Colonel, Judge Advocate

Alaska National Guard Joint Staff  
Joint Base Elmendorf-Richardson (JBER), Alaska  
**POSITION STATEMENT:** Answered questions during the hearing on  
CSHB 152.

KENDRA KLOSTER, Staff  
Representative Chris Tuck  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on  
CSHB 152(MLV) on behalf of Representative Tuck, prime sponsor.

#### **ACTION NARRATIVE**

[3:05:56 PM](#)

**CHAIR JONATHAN KREISS-TOMKINS** called the House State Affairs  
Standing Committee meeting to order at 3:05 p.m. Representatives  
Birch, Wool, Tuck, Johnson, Knopp, LeDoux, and Kreiss-Tomkins  
were present at the call to order.

#### **HB 173-CLIMATE CHANGE COMMISSION**

[3:07:06 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business  
would be HOUSE BILL NO. 173, "An Act establishing the Alaska  
Climate Change Response Commission; relating to the powers and  
duties of the Alaska Climate Change Response Commission;  
establishing the climate change response fund; and relating to  
the surcharge on oil produced in the state." [Before the  
committee, adopted as a work draft on 5/4/17, was the committee  
substitute (CS) for HB 173, Version 30-LS0163\R, Bruce, 5/1/17,  
referred to as "Version R."]

[3:07:24 PM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as  
prime sponsor of HB 173, relayed that the proposed legislation  
would recreate a climate change commission, which was previously  
created by administrative order in 2007. He said that under  
Version R, the robust funding source was removed.

[3:07:55 PM](#)

REPRESENTATIVE WOOL asked if Representative Josephson is concerned about the proposed legislation's effectiveness given it now lacks the "per barrel" fee.

REPRESENTATIVE JOSEPHSON answered that he is concerned, but the current version represents what is politically possible. He added that the appointees on the commission will be dedicated men and women who are interested in serving the state on the issue without the use of those resources. He further stated that he is hopeful that the state will obtain grants for mitigation efforts, and the commission will provide a pathway to make a real difference.

REPRESENTATIVE WOOL relayed that Hajo Eicken [Director, International Arctic Research Center (IARC)], who testified during the House State Affairs Standing Committee meeting of 4/11/17, expressed his concern for the effectiveness of HB 173 without the funding.

[3:09:59 PM](#)

REPRESENTATIVE LEDOUX moved to report the CS for HB 173, Version 30-LS0163\R, Bruce, 5/1/17, out of committee with individual recommendations and the forthcoming fiscal notes.

[3:10:16 PM](#)

REPRESENTATIVE JOHNSON objected.

CHAIR KREISS-TOMKINS asked Representative Johnson to speak to her objection.

REPRESENTATIVE JOHNSON stated that with a nine-member commission, the Municipality of Anchorage (MOA) and the Matanuska-Susitna (Mat-Su) Borough would not be well represented with only one member.

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A roll call vote was taken. Representatives Tuck, Wool, LeDoux, and Kreiss-Tomkins voted in favor of reporting HB 173, as amended, out of committee. Representatives Birch, Johnson, and Knopp voted against it. Therefore, CSHB 173(STA) was reported from the House State Affairs Standing Committee by a vote of 4-3.

**HB 152-ORGANIZED MILITIA; AK ST. DEFENSE FORCE**

3:11:36 PM

CHAIR KREISS-TOMKINS announced that the final order of business would be CS FOR HOUSE BILL NO. 152(MLV), "An Act relating to the organized militia; and relating to the authority of the adjutant general."

3:12:15 PM

REPRESENTATIVE TUCK, as prime sponsor of CSHB 152(MLV), relayed that the proposed legislation would continue the effort to make improvements to Title 26, as it relates to the Alaska organized militia. He referred to House Bill 126 [introduced during the Twenty-Ninth Alaska State Legislature, 2015-2016, and signed into law 11/07/16], which restructured the Alaska Code of Military Justice (ACMJ) and said that during that process other needed improvements were identified; the proposed legislation represents one of the identified improvements. He stated that the intent of CSHB 152(MLV) is to modernize Alaska's organized militia, which is comprised of four components: the Alaska Army National Guard (AK ARNG); the Alaska Air National Guard (AK ANG); the Alaska State Defense Force (ASDF); and the Alaska Naval Militia (AKNM). He said that together they constitute an efficient military force able to respond quickly to the needs of Alaskans.

REPRESENTATIVE TUCK explained that there are several key components to CSHB 152(MLV). One component clarifies that the Alaska adjutant general (TAG) has command and control of the organized militia under the direction of the governor as commander-in-chief. Although the TAG already possesses statutory control of the organized militia, the proposed legislation would clarify that the TAG has command as well. He maintained that command and control are important functions in any military organization; commanders set and are responsible for priorities, goals, and missions, while people in control have the authority to direct people to accomplish those missions. It is logical but not explicitly written in statute that the TAG has control and command of the organized militia; CSHB 152(MLV) would put it into statute.

REPRESENTATIVE TUCK relayed that the proposed legislation also would enhance the organized militia response capability. Existing law authorizes only the governor to order the organized militia into active state service; under CSHB 152(MLV) the governor may delegate to the adjutant general the authority to

call forth the organized militia in case of a wildland fire. He said that CSHB 152(MLV) would expand the authority for the TAG to order the organized militia into active service for other circumstances - earthquakes, flooding, or any other emergency - to save lives, prevent human suffering, or mitigate great property damage in the state.

REPRESENTATIVE TUCK related that the provisions under CSHB 152(MLV) would only be used if the governor is unreachable and time is of the essence to save Alaska lives. He gave an example: if Alaska experiences an earthquake like the Good Friday earthquake and the governor is unavailable - the governor is not in communication range, communication has been interrupted due to the earthquake, or the governor is seriously injured or killed - the TAG would be permitted to take command and control. Currently state statutes do not allow anyone other than the governor to call the organized militia to duty; therefore, in this example, a new governor would need to be sworn in, losing precious time in which the national guard could be saving lives.

REPRESENTATIVE TUCK relayed that CSHB 152(MLV) would ensure that the adjutant general can adopt regulations as needed and implement them with the approval of the governor. This would help to address regulatory deficiencies and correct outdated policies.

REPRESENTATIVE TUCK stated that tuition assistance programs for all four components of the organized militia would be expanded, and ASDF and AKNM would be added to the authorization for payment of tuition fees. He explained that currently the adjutant general may authorize payment for the Alaska National Guard. He stated that as the Department of Military & Veterans' Affairs (DMVA) works to ensure a strong ASDF, this proposal offers another tool to assist those who volunteer to protect Alaskans. He noted that the expansion of tuition assistance requires no fiscal note, because it is only available when funds are appropriated for the use of tuition assistance from the federal government; and the program has not been funded for the past couple of years.

[3:16:25 PM](#)

REPRESENTATIVE JOHNSON asked what prompted the proposed legislation.

REPRESENTATIVE TUCK responded that the impetus for CSHB 152(MLV) originated with DMVA. The intent of the proposed legislation is to modernize all the Title 26 statutes; make improvements to better handle future situations; and clarify authority and command for the adjutant general.

REPRESENTATIVE JOHNSON asked if the adjutant general's duties would be modified to reflect the additional responsibilities under CSHB 152(MLV).

REPRESENTATIVE TUCK answered, "It's a chain of command." He gave the example in which the captain is hit on a battle field and the next person in the line of duty takes charge until the captain returns. He offered that the proposed legislation clarifies that if the governor is unavailable for any reason, the next person in the chain of command may assume the governor's responsibilities until the governor is able to resume command.

REPRESENTATIVE JOHNSON asked if CSHB 152(MLV) changes the chain of command or just clarifies it. She asked if the proposed legislation only applies to the adjutant general's calling forth the militia, and not the Alaska National Guard.

[3:19:47 PM](#)

BOB DOEHL, Deputy Commissioner, Alaska Department of Military & Veterans Affairs (DMVA), relayed that DMVA supports CSHB 152(MLV); it would provide an updated, relevant, and viable legal nexus for [Major General Laurie Hummel, Commissioner/Adjutant General, DMVA] to carry out her existing duties. It does not grow those duties but allows her and the governor to do their duties more effectively. He explained that it does this in several ways: first it establishes that as the adjutant general has control over the Alaska organized militia, she also has command. It is vital that she have the responsibility and the authority to carry out the duties that are envisioned in Title 26 and going forward.

MR. DOEHL, in response to the question about what is driving the proposed legislation, referred to the limited authority of the adjutant general to place members of the organized militia into state active duty. This limitation was highlighted by a request for forces in a search and rescue (SAR); there was a delay in being able to reach the governor; the delay was not material in this case; however, when minutes matter, it is important to be able to quickly and efficiently allow the militia to go forth

and do what they have volunteered to do at the appropriate time. Waiting for the succession of command - for the lieutenant governor to be sworn in after a mass disaster - could result in unnecessary pain, suffering, and loss of life of Alaskans. When the militia is needed immediately, and there is no guarantee that the governor can be reached immediately, it is necessary to have a mechanism in place to address that situation until reestablishing communication.

MR. DOEHL relayed that in looking at the Title 26 as it now exists, there are areas that result in excessive administrative burden on the governor's office and the adjutant general's office for sending information to the governor. An example of this is a retirement application. As Title 26 currently is written, the adjutant general cannot approve a request for retirement; it must go to the governor for approval. By comparison, in the federal government, the service level secretary may approve a retirement; every retirement request does not need to go to the President of the U.S. for approval.

MR. DOEHL said that provisions of CSHB 152(MLV) would codify the regulation authority of the adjutant general for internal matters within the Alaska organized militia to make sure the force is effective, relevant, and capable of doing what it needs to do. It would codify the role of ASDF and assistant adjutant generals. He added that, in short, it would bring Title 26 a half century forward.

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JOHN JAMES, Colonel, Commander, Alaska State Defense Force (ASDF), testified that the proposed legislation would reduce response times during emergencies while maintaining reporting responsibilities of the adjutant general to the governor. It clarifies the adjutant general's responsibilities for regulations relating to commission, enlistment and administration, equipment and maintenance, and discipline and training for the Alaska organized militia, which includes ASDF. The commander-in-chief of ASDF is the governor of Alaska; ASDF serves when called to active state service; it is a service paid for by the state; and ASDF members are trained and equipped by the state. The proposed legislation would increase the professionalism and strengths of ASDF by recognizing a far superior and (indisc.) correct military manner, and in doing so it would strengthen the entire Alaska organized militia and increase the security of the State of Alaska.

[3:25:19 PM](#)

REPRESENTATIVE BIRCH relayed that he received a letter from [Lawrence] Wood, included in the committee packet, relating concerns with the proposed legislation. He reminded the committee of the time in the early 80s when former President of the U.S. Ronald Reagan was shot; then Secretary of State Alexander Haig said, "Well, I'm in charge." He relayed that anyone with a rudimentary understanding of the U.S. Constitution knew that Mr. Haig was not in charge. When the President of the U.S. is incapacitated, authority goes to the Vice President of the U.S. Representative Birch stated that he is troubled with the adjutant general having independent authority when civilian authority is unavailable. He asked, "What's so urgent that ... we can't get a call from our civilian authority to have that ... authorization received." He stated that he understands the intent to streamline services but wants to know for what reason Alaska would want its governor's authority circumvented.

[3:27:03 PM](#)

REPRESENTATIVE TUCK replied that from the adjutant general on down, there is a hierarchy of authority. The proposed legislation is not intended to negate the position of the lieutenant governor, but to provide for a quick response - "when a soldier's down or the ranking officer is down" the next in line is "heading in." He maintained that CSHB 152(MLV) would create a direct link to the adjutant general so that there is no question at the time a quick response is needed.

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MR. DOEHL responded by saying that Mr. Wood's interpretation of the proposed legislation is inconsistent with the language in CSHB 152(MLV). He stated that there would be no granting of blanket authority to the adjutant general; he/she must act within the intent expressed by the governor before the disruptive event. Mr. Doehl explained that this would not allow someone to say, "I am in charge" and impose martial law; the language specifically exempts the Alaska National Guard or the ASDF from being used for security or law enforcement. He said that when minutes matter, such as during an earthquake like Alaska's Good Friday earthquake, it would allow immediate deployment of militia members to assist with the extraction of victims from debris piles. He maintained that minutes matter in an earthquake or other mass disaster, and the proposed legislation would allow the militia to provide first aid

services and first responder services immediately. He reiterated that it would not be a blanket waiver for all sorts of ASDF or national guard action; it would be effective only until the adjutant reestablishes communication with the governor or his/her successor to confirm an ongoing intent. He emphasized, "Where minutes matter, this allows us to save lives."

REPRESENTATIVE TUCK referred to Section 3(b) of CSHB 152(MLV), [page 3, lines 3-9], and pointed out that the duties of the adjutant general would be limited to wildland fires, earthquakes, flooding, or other natural catastrophes; it would not involve calling forth the organized militia in anything other than these types of catastrophes; and the intent is to save lives, prevent human suffering, or mitigate great property damage. He referred to Section 3(c) of CSHB 152(MLV), [page 3, lines 10-13], which read, "Notwithstanding (b) of this section, the adjutant general may not order any part of the militia into active state service for actions that would subject civilians to the use of military power that is regulatory, prescriptive, proscriptive, or compulsory, unless approved by the governor before giving the order." He reiterated that the circumstances for response [by the adjutant general] would be limited.

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REPRESENTATIVE BIRCH replied, "The devil's in the details." He relayed that he doesn't dispute the good intentions of the proposed legislation but suggested that someday it might be interpreted with more latitude. He expressed concerns with allowing the authority for response without authorization from the governor, who is ultimately responsible and accountable.

REPRESENTATIVE TUCK offered that currently the adjutant general does have that authority for wildland fires; the proposed legislation would expand it to earthquakes, flooding, and other natural catastrophes. He maintained that if it is appropriate for the adjutant general to act for wildfires, it should be appropriate for earthquakes and other catastrophes. He said that CSHB 152(MLV) would clarify archaic language in Title 26 and modernize it.

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REPRESENTATIVE JOHNSON cited page 1, line 12, to page 2, line 1, of CSHB 152(MLV), which read, "The adjutant general shall adopt regulations that provide for the organization, administration,

and equipment of the organized militia that are not contrary to federal law or regulations". She opined that those responsibilities belong to the governor and the executive office, and she is not comfortable with delegating them in statute to the adjutant general. She maintained that she is not comfortable with making DMVA less transparent, considering all that has happened within the department.

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REPRESENTATIVE TUCK expressed his appreciation for Representative Johnson's concerns. He maintained that those involved with restructuring the ACMJ had those same concerns - giving the adjutant general authority to adopt regulations for the organized militia and not having those regulations subject to the administrative regulation review. He stated that currently all departments can adopt regulations; the proposed legislation clarifies that DMVA may create emergency measures and protocols. He maintained that CSHB 152(MLV) would have no effect on misuse of authority.

[3:34:28 PM](#)

CHRISTOPHER WEAVER, Lieutenant Colonel, Judge Advocate, Alaska National Guard Joint Staff, clarified that the provision allowing the adjutant general to exercise the authority of the governor is currently in AS 26.05.170. Under the proposed legislation, that provision would be moved to AS 26.05.060 so that the authorities are all in one section of statute. He addressed the question about regulations, as follows: military regulations are not regulations that affect the public but only the soldiers; they represent internal procedures, which in the military, are referred to as "regulations."

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REPRESENTATIVE KNOPP asked how many members are in the ASDF.

[3:36:16 PM](#)

COLONEL JAMES answered that there are 80 members.

REPRESENTATIVE KNOPP referred to Section 5 of CSHB 152(MLV), [page 4, lines 14-16], which addresses benefits for ASDF members who suffer injury, disability, or death while in the line of duty. He mentioned that there is another proposed legislation, [CSHB 126(MLV)], that addresses Workers' compensation benefits

for militia members, and he questioned why this one does as well. He asked if the benefits mentioned in CSHB 152(MLV) are for a different group of people than those who would receive benefits under [CSHB 126(MLV)].

[3:37:26 PM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, relayed that CSHB 152(MLV) is one of three bills, [HB 126, HB 150, and HB 152], introduced [during the Thirtieth Alaska State Legislature, 2017-2018] addressing the Alaska organized militia; therefore, the language that Representative Knopp referenced is conforming language to ensure that the three bills are consistent with each other.

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REPRESENTATIVE KNOPP stated that he recollects a different number of militia members mentioned in the [House Labor and Commerce Standing Committee meeting of 3/29/17] during the hearings on [CSHB 126(MLV)]. He asked if the proposed legislation addresses a different membership.

MS. KLOSTER answered that it is the same group of individuals under both pieces of proposed legislation; they are the members of ASDF. She stated that at the time of the hearing on CSHB 126(MLV), there were 76 members in the ASDF, and now there are 80.

REPRESENTATIVE KNOPP asked if the language he cited is necessary, since it is in [CSHB 126(MLV)].

MS. KLOSTER responded that the language is "cleanup" language that carries over from CSHB 126(MLV); there are other parts in Section 5 that are being cleaned up; and to streamline the statutes, parts of the statutes are being moved around.

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REPRESENTATIVE TUCK stated that another example of the cleanup is evidenced by the removal of language from AS 26.05.190(a), shown in Section 6 of CSHB 152(MLV), [page 4, lines 18-22], and the insertion of that language into AS 26.05.060, which is shown in Section 1 of CSHB 152(MLV), [page 1, line 12 to page 2, line 1]. The revisions do not represent any change in duties, only an improvement in the organization of Title 26 for easier reading.

3:39:40 PM

REPRESENTATIVE LEDOUX asked if the language in CSHB 152(MLV) referred to by Representative Knopp, [page 4, lines 14-16], would be necessary if [CSHB 126] passed.

REPRESENTATIVE TUCK said that he would check to see if that language was included in [CSHB 126(MLV)]; he maintained that it was challenging to split all the proposed changes to Title 26 into three pieces of legislation.

3:40:32 PM

CHAIR KREISS-TOMKINS asked for the status of the other two bills.

MS. KLOSTER reported that the progress of the Title 26 reform bills are as follows: HB 150 just moved out of the House Finance Committee; CSHB 126(MLV) has just passed from the House to the Senate; all three bills are moving simultaneously. She maintained that the language referenced by Representative Knopp, [page 4, lines 14-16], should remain in CSHB 152(MLV) to conform with the other changes made to the statutes.

3:41:40 PM

REPRESENTATIVE WOOL referred to Mr. Doehl's testimony regarding the adjutant general calling for SAR while the governor was not available; he asked if a direct order from the governor is needed for a SAR response.

LIEUTENANT COLONEL WEAVER answered that the authority under Section 3(b), [page 3, lines 3-9], is referred to as an "immediate response authority." The Alaska National Guard operates under Title 32 [of the U.S. Code] and has immediate response authority; it can launch at the request of civil authority to perform a rescue to save lives, prevent human suffering, or mitigate great property loss. The proposed legislation would codify that from a state active duty perspective. He responded that the governor does not need to give a direct order when time is of the essence; however, the proposed legislation does require the Alaska National Guard to seek approval from the governor if time allows and to continue to seek approval as necessary.

REPRESENTATIVE WOOL referred to Colonel James's reference to reducing the reporting time from the adjutant general to the governor. He offered that the governor could be reached easily barring some dire circumstance making him/her unavailable. He asked if not being able to reach the governor is an issue.

[3:45:04 PM](#)

REPRESENTATIVE TUCK stated that the full authority does come from the governor. He referred to Section 3(d) of CSHB 152(MLV), [page 3, lines 14-15], which read, "The adjutant general shall make reasonable and continuous efforts to contact the governor for approval of any orders issued under this section." He referred to Section 3(e) of CSHB 152(MLV), [page 3, lines 16-20], which read, "If the adjutant general exercises the authority under (b) of this section, but does not receive the governor's approval under (d) if this section, the adjutant general shall reassess whether there remains a continued need for an organized militia response as soon as practicable, but not later than 72 hours after the order under (b) of this section was given." He maintained that this subsection provides for additional checks and balances.

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MR. DOEHL relayed that in Alaska, individuals are not always just "a phone call away"; there are dead zones in parts of Alaska; and it can be especially challenging to reach someone in a village. The governor is expected to travel statewide; there are lapses in the ability to reach the governor; and when minutes count, the national guard would like the authority to act without delay.

REPRESENTATIVE WOOL asked for confirmation that the provisions under the proposed legislation - ensuring that the command and control structure is intact - are in response to natural disasters, not military actions or threats to security. He asked if there are any constitutional issues regarding the proposed legislation.

REPRESENTATIVE TUCK replied that Legislative Legal and Research Services has not mentioned any constitutional issues. He referred to Representative Wool's reference to protecting security and said that there may be a need to secure people - evacuate them or move them into shelters.

REPRESENTATIVE WOOL asked if ASDF has been called in an emergency.

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COLONEL JAMES replied that ASDF has been called several times in the last decade, including for the Sockeye Fire and the Miller's Reach Fire.

[3:48:59 PM](#)

REPRESENTATIVE BIRCH asked if ASDF has any experience with satellite phones. He said he understood them to be useful for remote and immediate communication.

COLONEL JAMES responded that ASDF has about five different technologies for accessing satellites for communication - satellite phone ("satphone"), Iridium GO!®, Broadband Global Area Network (BGAN), WildBlue, and HughesNet®.

REPRESENTATIVE BIRCH asked if one could be shared with the governor's office.

COLONEL James replied that he would be happy to do that.

REPRESENTATIVE BIRCH offered that there is no good excuse for not being able to be in communication with the governor at almost any time.

COLONEL JAMES reiterated that there are dead spots throughout the state; ASDF must perform testing; there have been periods of time, although extremely rare, when communication was difficult. He mentioned that there have been great strides [in communication]; ASDF is trying to mitigate risks both to Alaskans and to the state.

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CHAIR KREISS-TOMKINS relayed that he has used satphones several times and reported that they are great but not always reliable.

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REPRESENTATIVE LEDOUX asked if the governor, at least through his security detail, has a satphone when he travels.

MR. DOEHL responded yes, but given the terrain in Alaska, it may not always work immediately.

[3:51:14 PM](#)

REPRESENTATIVE KNOPP referred to the list of events for which the governor may order the organized militia into active state service in Section 2 of CSHB 152 (MLV), [page 2, lines 10-16]. He asked if the volunteers of the militia are subject to the same disciplinary action as enlisted personnel and if they are fully aware of that upon enlisting.

[3:52:05 PM](#)

LIEUTENANT COLONEL WEAVER stated that the revised ACMJ under House Bill 126, which passed during the Twenty-Ninth Alaska State Legislature, 2015-2016, applies to all members of the organized militia - Alaska National Guard, ASDF, and AKNM - whether under Title 32 of the U.S. Code or active state duty under AS 26.05.

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REPRESENTATIVE JOHNSON expressed her concern with resorting to a "military control" in the event of not being able to contact the governor. She stated her belief that the powers belong in the governor's office with the lieutenant governor, not the adjutant general, and the proposed legislation addresses more than just wildfires.

LIEUTENANT COLONEL WEAVER responded that the authority under the proposed legislation is referred to as "immediate response authority"; national guards throughout the 50 states and 4 territories each have some form of immediate response authority usually through a Department of Defense (DoD) directive for Title 32 purposes and through state law as well. The proposed legislation applies to quick response to any kind of emergency when civilian authority - Alaska State Troopers (AST), Anchorage Police Department (APD), or similar entities - asks for the assistance of ASDF; ASDF would be able to respond and inform the governor at the same time. He maintained that it is like a police officer not calling the police chief for authority but responding to an emergency to save lives, prevent human suffering, or mitigate great property damage. In the same way an emergency medical technician (EMT) is not going to call his supervisor before acting. Lieutenant Colonel Weaver said that with the military capabilities that Alaska has - helicopters,

High Mobility Multipurpose Wheeled Vehicle ("Humvee"), specially developed fire trucks, and fire suppressants - the militia can assist the civilian authority in responding to an emergency.

[3:55:06 PM](#)

REPRESENTATIVE TUCK asserted that the intent of the proposed legislation is to address those very rare instances in which there is a catastrophe - wildfires and flooding; action needs to be taken to save lives, prevent human suffering, or mitigate great property damage; the governor is not available, is incapacitated, or cannot be reached; and reasonable and continuous efforts have been made to make contact.

[3:55:59 PM](#)

REPRESENTATIVE WOOL referred to Section 2, [page 2, line 10], which read, "In the event of war, disaster, insurrection, rebellion" and pointed out that the proposed legislation addresses events beyond natural catastrophe. He relayed his understanding that after [the terrorist attacks of September 11, 2001], the ASDF was assigned to guard the Hurricane Gulch Bridge. He expressed his concern that the adjutant general would have the authority to act similarly if something like that happened again.

[3:57:08 PM](#)

MR. DOEHL answered that after [the terrorist attacks of September 11, 2001], ASDF was ordered to perform the mission of securing the bridge by former Governor [Tony] Knowles. He stated that the proposed legislation would exempt the adjutant general from law enforcement or "securing-type" missions. He said that Governor [Bill] Walker recognized that concern when reviewing the proposed legislation; the governor stated that if the Alaska organized militia is used to regulate the actions of Alaskans, it would be a decision made only by the governor and would not be delegable.

REPRESENTATIVE TUCK pointed out that the language in Section 2, [page 2, line 10], is existing language, and under CSHB 152(MLV), "Governor may order" is removed from the section title. He referred to Section 2 [page 2, lines 14-19], which read, "in the case of imminent danger of the occurrence of any of these events; or whenever responsible civil authorities fail to preserve law and order, or protect life and property, or the governor believes that failure is imminent, the governor may

order the organized militia or any part of it, into active state service to execute the laws and to perform duties in connection with them that the governor considers proper." He also referred to Section 3, subsections (f), (g), and (h), of CSHB 152(MLV), [page 3, lines 2-27], presenting instances in which the militia may not be used. He maintained that the proposed legislation offers strong boundaries for authority.

[3:59:02 PM](#)

REPRESENTATIVE LEDOUX mentioned that after [the terrorist attacks of September 11, 2001], the person in charge of the [Pacific Spaceport Complex - Alaska (PSCA)] on Kodiak Island announced, without consulting authorities, that the road between Kodiak and the rocket launch site was closed. She suggested that sometimes unusual occurrences can bring out unusual and extra-legal responses. She offered that it is better for there to be legal authority for these truly unusual circumstances, then to have someone simply take over and assume the authority.

[4:00:31 PM](#)

CHAIR KREISS-TOMKINS announced that CSHB 152(MLV) would be held over.

[4:01:00 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:01 p.m.