

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

January 27, 2022

3:32 p.m.

MEMBERS PRESENT

Senator Mike Shower, Chair
Senator Lora Reinbold, Vice Chair
Senator Mia Costello
Senator Roger Holland
Senator Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 167

"An Act relating to elections, voter registration, ballots, and a system of tracking and accounting for ballots; establishing an election offense hotline; relating to election fraud, election interference, and election official misconduct; requiring signature verification, notice, and the opportunity to cure; and providing for an effective date."

- HEARD & HELD

HOUSE JOINT RESOLUTION NO. 16

Encouraging the United States Congress to pass legislation granting the Hmong veterans of the Vietnam War access to the same veteran benefits received by United States veterans.

- MOVED HJR 16 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 167

SHORT TITLE: ELECTIONS; FRAUD; BALLOTS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/18/22	(S)	READ THE FIRST TIME - REFERRALS
01/18/22	(S)	STA, FIN
01/27/22	(S)	STA AT 3:30 PM BUTROVICH 205

BILL: HJR 16

SHORT TITLE: HMONG VETERANS MILITARY RIGHTS

SPONSOR(s): NELSON

04/09/21	(H)	READ THE FIRST TIME - REFERRALS
04/09/21	(H)	MLV
04/22/21	(H)	MLV AT 1:00 PM GRUENBERG 120
04/22/21	(H)	Heard & Held
04/22/21	(H)	MINUTE (MLV)
04/27/21	(H)	MLV AT 1:00 PM GRUENBERG 120
04/27/21	(H)	Moved HJR 16 Out of Committee
04/27/21	(H)	MINUTE (MLV)
04/28/21	(H)	MLV RPT 5DP 1NR
04/28/21	(H)	DP: CLAMAN, NELSON, TARR, STORY, TUCK
04/28/21	(H)	NR: RAUSCHER
05/19/21	(H)	LIMIT ALL DEBATE TO 2 MIN EACH Y23 N16 E1
05/19/21	(H)	TRANSMITTED TO (S)
05/19/21	(H)	VERSION: HJR 16
01/18/22	(S)	READ THE FIRST TIME - REFERRALS
01/18/22	(S)	STA
01/27/22	(S)	STA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JOSH APPLEBEE, Chief of Staff
Lieutenant Governor Kevin Meyer
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: Introduced SB 167 on behalf of the administration.

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

POSITION STATEMENT: Responded to questions and provided information during the hearing on SB 167.

THOMAS FLYNN, Assistant Attorney General
Civil Division
Labor and State Affairs Section
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions and provided information during the hearing on SB 167.

REPRESENTATIVE DAVID NELSON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of HJR 16.

REPRESENTATIVE LADDIE SHAW
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Offered supporting testimony on HJR 16.

ACTION NARRATIVE

[3:32:39 PM](#)

CHAIR MIKE SHOWER called the Senate State Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Costello, Kawasaki, Reinbold, Holland, and Chair Shower.

SB 167-ELECTIONS; FRAUD; BALLOTS

[3:33:07 PM](#)

CHAIR SHOWER announced the consideration of SENATE BILL NO. 167 "An Act relating to elections, voter registration, ballots, and a system of tracking and accounting for ballots; establishing an election offense hotline; relating to election fraud, election interference, and election official misconduct; requiring signature verification, notice, and the opportunity to cure; and providing for an effective date."

He listed the individuals who were available to answer questions.

[3:33:48 PM](#)

JOSH APPLEBEE, Chief of Staff, Lieutenant Governor Kevin Meyer, Office of the Lieutenant Governor, Juneau, Alaska, introduced SB 167 on behalf of the administration. He paraphrased the Sponsor Statement that read as follows:

[Original punctuation provided.]

This bill will improve voter rolls, secure absentee and in-person voting, and increase the identification and investigation of election crimes. By ensuring election integrity, this bill will give all Alaskans confidence in the election process, including election outcomes.

This bill will further improve voter rolls by requiring that Permanent Fund Dividend applicants request voter registration in order to be registered and directing the Division of Elections to update its voter list maintenance practices, audit the voter list every other year, and issue reports to the Legislature.

The bill will provide more secure absentee voting practices by requiring signature matching, notice, and cure for all absentee ballots, prohibiting the division from sending unrequested absentee ballots, outlawing ballot harvesting, allowing voters to request absentee ballots in four-year increments, and require the provision of prepaid envelopes for all absentee ballots.

The bill will secure in-person voting by prohibiting voters from providing alternate forms of identification and preventing those providing assistance at the polls from influencing voters.

The bill will further define unlawful interference with elections, election fraud, and election official misconduct, create a toll-free number to report these and other election crimes, and require that police officers receive training in detecting and investigating election crimes. The bill will further ensure election integrity by allowing additional hand counts, prohibiting private funding for elections, requiring the centralized destruction of election materials, and instituting routine forensic examinations and strict chain-of-custody protocols for voting machines.

In order to establish a more trustworthy election system, we urge your prompt and favorable action on this measure.

[3:37:53 PM](#)

SENATOR COSTELLO expressed appreciation that the bill includes provisions from many other bills from legislators from both sides of the aisle. She said she is becoming convinced that everybody is benefited by election integrity. She recalled that in an earlier hearing Ms. Fenumiai said that a hand count is not

possible with ranked choice voting (RCV), although Mr. Applebee said that is in SB 167.

[3:39:29 PM](#)

MR. APPLEBEE said the provision about additional hand counts deals with a form of risk limiting audits. Currently the division can recount by hand one random precinct per district. SB 167 allows the division to expand that if something does not appear right or they receive a significant number of complaints.

CHAIR SHOWER advised that he recently learned that the correct terminology for an elections audit is "risk limiting audit," not forensic audit. He asked Ms. Fenumiai if she had anything to add.

[3:40:54 PM](#)

GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, Juneau, Alaska, stated that the hand count verification process is required by statute.

CHAIR SHOWER asked Senator Costello if she was satisfied with the response.

SENATOR COSTELLO said Ms. Fenumiai's earlier comment was that an entire hand recount is not possible and now she heard Mr. Applebee say a hand recount is already allowed for one precinct in a district and SB 167 expands that if the division senses a problem.

MR. APPLEBEE agreed.

CHAIR SHOWER asked Ms. Fenumiai to clarify whether or not it is possible to conduct a hand count in a ranked choice voting election.

[3:42:39 PM](#)

MS. FENUMIAI reiterated her statement during the previous hearing that it is not possible to conduct a timely hand recount of an election that uses ranked choice voting. Historically the Division of Elections has followed the statute and done a hand count of a randomly drawn precinct to ensure the precinct scanners are accurately counting the ballots. That process will continue in the general election; the State Review Board will do the hand count verification on the 1st Choice on all ballots.

CHAIR SHOWER asked Mr. Applebee to walk through the sectional analysis and discuss the fiscal note.

[3:43:53 PM](#)

MR. APPLEBEE presented the sectional analysis for SB 167. It read as follows:

[Original punctuation provided.]

As described in the sectional analysis below, this bill would eliminate automatic voter registration for PFD applicants; require regulations for list maintenance, the precinct ballot count, and precinct tabulators; prohibit Division of Elections (DOE) from accepting private funds; create an election offense hotline; prohibit influence by those providing voter assistance; allow DOE to initiate additional hand counts; require the destruction of election materials; implement signature matching, notice, and cure for absentee ballots; provide postage-paid return envelopes with absentee ballots; allow voters to request absentee ballots for four years at a time; prohibit voters from providing alternate forms of identification; amend or create the crimes of unlawful interference with voting, unlawful interference with an election, election fraud, and election official misconduct; and require that police officers receive training related to election offenses.

Section 1: This section, along with sections 2 - 5, 31, and 32 of the bill, address voter registration for PFD applicants. PFD applicants will have to request registration in order to be registered. This section clarifies that the identification requirements for voter registration apply only when PFD applicants request registration.

Section 2: This section directs DOE to register those who submit a PFD application and request registration. It also clarifies that PFD applications may create new voter registrations or update existing voter registrations.

Section 3: This section requires that PFD applications include a way for applicants to request voter registration.

[3:45:39 PM](#)

SENATOR KAWASAKI asked for an explanation of the last sentence in Section 3 on page 2, lines 16-18. It says the director may require proof of identification from the applicant if the Department of Revenue doesn't already have that information.

MR. APPLEBEE replied that is current statute and Ms. Fenumiai could answer the question.

[3:47:03 PM](#)

MS. FENUMIAI explained that the division would not be able to register a voter if they could not verify the voters identity. She offered to follow up with a more complete response.

SENATOR KAWASAKI said he was interested in how the verification is done now and if there is a process for obtaining the proof of identification.

CHAIR SHOWER pointed out that it says the director "may" require proof, not "shall" provide proof. He asked Mr. Applebee if he wanted to highlight some of the reasons the bill switches from automatic voter registration through the PFD application to registration for those voters who request to be registered. He noted the current automatic registration was causing difficulties because people who should not have been registered were in fact being registered.

MR. APPLEBEE said the administration believes that the changes proposed in SB 167 to voter registration through the PFD application is significantly better than just hoping that people come to the division to register to vote. The option to register is offered with each PFD application.

Section 4: This section requires DOE to send notices to PFD applicants who request voter registration. These notices provide applicants opportunity to decline registration, maintain their current address, and select a political affiliation. They also inform applicants that their registration may be cancelled in other jurisdictions.

Section 5: This section requires DOE to register applicants that request registration if the applicants do not thereafter decline registration in response to the notice from DOE.

[3:49:51 PM](#)

MR. APPLEBEE continued to read the sectional analysis.

Section 6: This section adds two new subsections relating to DOE's list of registered voters. The first requires DOE to adopt list-maintenance regulations requiring it to review certain records, including records of deceased voters, those convicted of certain felonies, those not qualified to vote, those registered in other states, the number of registered voters compared to the number of eligible voters, and voter registration data breaches.

SENATOR KAWASAKI said the automatic voter registration on the PFD application asks the applicant if they are a felon and advises that Alaska law does not allow voter registration if the answer is "yes." He asked if there is a current process to filter out felons.

MR. APPLEBEE deferred to Ms. Fenumiai.

[3:51:49 PM](#)

MS. FENUMIAI said the Department of Revenue (DOR) currently sends names to the division of individuals who applied for a PFD and would also be eligible to register to vote. The names of individuals who said they have been convicted of a felony involving moral turpitude would not be sent to the Division of Elections.

SENATOR KAWASAKI asked if the division has a verification process for the list it receives from DOR to weed out anybody who lied about their felony status.

MS. FENUMIAI replied the division takes the information the voter provided at face value since they signed the application as correct under penalty of perjury. The division also receives regular updates from the Court System about individuals who have been convicted of felonies involving moral turpitude so it is able to identify people who are currently registered but should not be, but there is not a reverse mechanism for that.

CHAIR SHOWER said the discussions last year highlighted that there is no mechanism for cross checking and it causes problems later on.

[3:54:10 PM](#)

MR. APPLEBEE continued to discuss Section 6.

The next subsection requires DOE to select and consult a nationally recognized subject-matter expert, to audit the list of registered voters, and to issue a report every other year.

He said this should provide insight into the status of the voter database and what will happen moving forward.

Section 7: This section prohibits DOE from accepting or spending private funding for the administration of elections.

Section 8: This section and the following section concern poll watchers. These sections reorganize the existing statute and provide that political parties, candidates, and organizations may have poll watchers during general, special, and special primary elections, while only candidates and organizations may have poll watchers during primary elections.

Section 9: This section includes the deleted language from the prior section, with the addition that written proof of a poll watcher's appointment must be signed by the party, candidate, or organization.

[3:55:57 PM](#)

CHAIR SHOWER mentioned a letter from a constituent who asked what prevents a situation like happened in Texas where a group carrying AR-15 style rifles went to the poll to watch.

MR. APPLEBEE deferred to Ms. Fenumiai.

CHAIR SHOWER acknowledged that the bill does not specifically address that type situation but asked Ms. Fenumiai to comment.

[3:57:25 PM](#)

MS. FENUMIAI answered that groups have typically been understanding of size limitations and each group has been allowed to have one watcher in a precinct.

CHAIR SHOWER asked if the division has any authority to prevent somebody or a group of individuals from being poll watchers.

MR. APPLEBEE noted that Tom Flynn with the Department of Law was available online.

MS. FENUMIAI relayed that the first outreach if there is a problem would be to the police.

[3:59:47 PM](#)

THOMAS FLYNN, Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law, Anchorage, Alaska, advised that other laws in Title 15 and in federal law would apply if there were a scene at a polling place. Sections 8 and 9 would not diminish those other laws.

CHAIR SHOWER restated his constituent's concern about whether a biased poll worker could allow a group of poll watchers to intimidate and prevent poll workers from doing their job. He asked if the bill addresses that type of situation.

MR. FLYNN said he did not see that in the bill but he would take another look.

SENATOR REINBOLD asked Mr. Applebee why the administration did not support a forensic audit of the 2020 election; and if Judge Crosby's decision to suspend the witness signature requirement during the pandemic had an effect. She also asked if he had to prepare the sectional analysis himself.

MR. APPLEBEE said the Department of Law is very helpful in preparing sectional analyses. To the question about the effect of the court ruling he suggested she be more specific but one effect was that fewer ballots were rejected.

SENATOR REINBOLD asked if it potentially increased ballot harvesting.

MR. APPLEBEE said he would follow up with a complete response as to what they saw and whether or not it could be attributed to the signature waiver. He said he would also follow up with the lieutenant governor's response about the forensic audit.

CHAIR SHOWER stated that it is an official request.

SENATOR REINBOLD said that in the future she would also like to look at the best parts of both Senator Shower's and the administration's election bills.

[4:06:15 PM](#)

CHAIR SHOWER clarified that he had asked for data from the 2020 election and for a risk limiting audit but the request was basically denied.

4:07:07 PM

SENATOR KAWASAKI asked if the language that is deleted in Section 8 appears elsewhere in the bill. It talks about counting in a place of voting in full view of poll watchers.

MR. APPLEBEE said he would find out whether or not it was specifically removed.

CHAIR SHOWER said it's a good point and it goes to the question of transparency and faith in the election process. He requested a follow up response.

SENATOR KAWASAKI recalled a state that required poll watchers to stand so far away they had difficulty tracking what occurred. He relayed his experience watching votes being counted, which was that watchers were just steps away from those counting and could hear and see everything that was happening. He expressed hope that the language was relocated, not removed entirely.

MR. APPLEBEE mentioned a recent Anchorage election where there was an issue of poll watchers having to use binoculars.

CHAIR SHOWER commented on municipalities that are free to run their elections as they see fit while using data from the state. He also related that the state of Colorado has 24/7 lockdown after an election until the vote is counted. He said he was considering that for his bill.

4:10:35 PM

MR. APPLEBEE said he would follow up on Senator Kawasaki's request but he did not believe that language was removed with specific intent.

MR. APPLEBEE continued the sectional analysis for SB 167.

Section 10: This section requires DOE to create and publicize a toll-free election offense hotline.

SENATOR COSTELLO said she likes the idea of a toll-free election offense hotline but the provision says nothing about accountability. She asked if the complaints will be publicized; who will look into the complaints; and whether the hotline will be monitored throughout the election process. She expressed interest in working with the administration to close that circle.

MR. APPLEBEE said it is a good point and he would be happy to work on it with her.

CHAIR SHOWER noted that his bill last year had a similar section that was much more robust. That section was slimmed down due to push back but he was willing to amend the bill to make the provision more robust if there was interest in doing so.

MR. APPLEBEE said that would be great.

Section 11: This section prohibits election officials and others providing assistance at the polls from influencing the voting decisions of those they are assisting.

MR. APPLEBEE said this clarifies that poll workers are available to help with the election process but they are not to influence or vote for the voter.

CHAIR SHOWER raised a question about a potential conflict given that the ranked choice voting system is new to Alaska voters. He pointed out that some voters may need help in how to fill out their ballot so it is not rejected and that may be interpreted as showing voters which bubbles to fill on the ballot.

MR. APPLEBEE said the poll worker could assist a voter by showing them a sample ballot. The poll worker would not touch a voter's official ballot.

CHAIR SHOWER commented that a poll worker could be in trouble if they help a voter too much. He asked if there is conflict between the laws.

MR. FLYNN said the existing portion of the statute requires poll workers to assist voters and that will continue. For example, a voter may get an error message that their ballot had too many non-sequential votes, and the poll worker could explain what that means without influencing the voting choice. Additionally, the provisions prohibiting electioneering at polling places remain and those apply with even more force to poll workers.

CHAIR SHOWER stated that this is on the record and if a poll worker gets in trouble the court can look at the intent.

[4:17:05 PM](#)

SENATOR KAWASAKI asked if Sec. 15.15 specifically addresses activity at the poll, not absentee ballots sent to a home.

MR. APPLEBEE agreed.

CHAIR SHOWER asked if his question was in reference to his previous comment.

SENATOR KAWASAKI answered no; he was thinking about helping his mother fill out her ballot. He asked if he was supposed to decline to answer if she asks who she should vote for.

MR. APPLEBEE pointed out that he would not be serving as an election worker in that circumstance.

CHAIR SHOWER said it was a good clarifying question for the record.

SENATOR COSTELLO asked if there is or will be a plan to educate poll workers about education on ranked choice voting.

MR. APPLEBEE deferred to Ms. Fenumiai to talk about how the division is using the money that has been appropriated and her plans to educate poll workers. He added that the administration had submitted a supplemental budget request to increase the efforts to educate the public.

SENATOR COSTELLO said it is not addressed in the bill and she would have that discussion with Ms. Fenumiai offline.

[4:19:04 PM](#)

MR. APPLEBEE continued the sectional analysis for SB 167.

Section 12: This section requires DOE to adopt regulations for the precinct ballot count.

He noted that the chair and his staff identified the issue of ballots being destroyed at the precinct level and this provision makes the process more transparent and accountable.

CHAIR SHOWER said the idea is to move away from policy decisions at the division level because policies change with different administrations.

MR. APPLEBEE continued the sectional analysis for SB 167.

Section 13: This section allows DOE to conduct hand counts for more than one randomly selected

precinct in house districts, except those house districts that have only uncontested offices.

Section 14: This section shortens the retention period for election materials from four years to 22 months. It also requires that used and unused ballots, absentee certificates and envelopes, and other paper records be destroyed at one of two locations in the state, with the director witnessing and certifying to the destruction.

Section 15: This section requires DOE to provide absentee voters instructions on how to use the free online system for tracking absentee ballots, created in section 23.

Section 16: This section requires DOE to provide postage-paid return envelopes with absentee ballots.

MR. APPLEBEE said this provision is not as refined as the administration would like. The concern is that postage paid envelopes do not receive a date stamp so there would be no way to determine when a ballot was posted.

CHAIR SHOWER said this is a reason to have ballot chain of custody.

MR. APPLEBEE noted that the City and Borough of Juneau had an issue like this. He restated that the idea is in the bill and the hope is to find some resolution.

CHAIR SHOWER noted that his staff member voted in that election and his vote did not count because of the postmark date. He said this is a real problem because it disenfranchises voters.

MR. APPLEBEE opined that finding an elegant solution will make the bill stronger.

[4:23:37 PM](#)

SENATOR COSTELLO asked if there is any evidence that people are not voting because they do not have a stamp for the return envelope.

MR. APPLEBEE replied he did not have a specific example but there is anecdotal evidence that voting should be as easy as possible.

SENATOR COSTELLO mentioned the importance of weighing the cost benefit and questioned whether it would be a worse scenario to count ballots that were posted after Election Day. She said she is curious to know what Juneau did about that problem.

CHAIR SHOWER asked if anybody had information about that.

MR. APPLEBEE said he didn't know about any resolution, but there were several thousand ballots in the Juneau election that were not counted. He acknowledged that Senator Costello's point that the cost cannot outweigh the benefits was excellent.

SENATOR COSTELLO said she did not want her comment to be misinterpreted to mean she did not support supplying a postage paid return envelope if that makes it easier for people to vote. However, it is a huge problem if thousands of ballots are not counted because there is no date stamp on the return envelope. She added that she appreciated the discussion.

SENATOR HOLLAND asked if anybody looked at how other states handle the issue of postage paid ballots.

MR. APPLEBEE offered his belief that it is more common than not to have postage paid return envelopes for by mail ballots. He offered to follow up with specific information.

SENATOR KAWASAKI also expressed interest in looking at how other states address postage paid return envelopes for by mail ballots.

MR. APPLEBEE said the administration needs to do some research to see whether other states have found a solution.

CHAIR SHOWER added that his office has asked the U.S. Postal Service about available options to date stamp a prepaid return envelope and how that might tie in to ballot tracking and chain of custody. He acknowledged that there could already be an elegant solution.

[4:28:09 PM](#)

MR. APPLEBEE agreed and continued the sectional analysis for SB 167.

Section 17: This section prohibits DOE from sending absentee ballots to voters who do not request them, except when DOE is conducting an election by mail.

He said this provision is current statute and practice but the amendment makes it abundantly clear that voters will only receive a ballot on request.

Section 18: This section allows voters to request absentee ballots for four years, after which DOE will send notification and the voters can reapply. If absentee ballots or other DOE mail is returned as undeliverable, DOE will stop sending absentee ballots.

MR. APPLEBEE said voters must reapply because the administration feels that a permanent application would keep people on the voter rolls longer than needed.

Section 19: This section directs DOE to begin to review absentee ballot certificates ten days before the election. It also requires that DOE review these certificates before it counts the accompanying ballots.

MR. APPLEBEE said the intention is to get the applications processed faster.

CHAIR SHOWER highlighted that this provision comes partially from Colorado best practices.

SENATOR KAWASAKI asked if the ballots are separated from the ballot envelope at the regional center.

[4:30:37 PM](#)

MR. APPLEBEE deferred to Ms. Fenumiai.

MS. FENUMIAI explained that staff logs by mail ballots when they are received at one of the five regional offices and are subsequently reviewed by the bipartisan Absentee Review Board. The envelopes are not opened and ballots removed until the board has certified that each voter is eligible to have cast that ballot.

MR. APPLEBEE continued the sectional analysis for SB 167.

Section 20: This section requires DOE to match the signatures on absentee ballot certificates with signatures in voter registration records.

Section 21: This section adds inconsistent signatures as a reason absentee ballots will not be counted. It also eliminates the ability of voters to provide utility bills, government documents, and other alternate forms of identification.

Section 22: This section explains how signature matching will occur. The signature verification process will include the use of signature comparison software, according to regulations adopted by DOE.

Section 23: This section adds two new sections of law. The first creates a free, online absentee ballot tracking system. This system will indicate whether DOE has reviewed a certificate and how the voter can cure the certificate, if necessary. It will also indicate whether DOE has counted a ballot and, if applicable, why it did not count.

The second allows voters to cure their certificates when their signatures do not match. DOE will provide notification within 48 hours of its determination, and voters will then have to confirm that they mailed a ballot and provide identification and a signature. Voters have 14 days after election day to cure. If a voter does not confirm that he or she voted, or does not respond to DOE's notice, the matter will be referred to the attorney general for investigation.

MR. APPLEBEE acknowledged that Section 23 will require additional discussion about the time and whether it is possible to create a cure process that can apply equally to voters statewide.

[4:32:37 PM](#)

CHAIR SHOWER asked if the direction to implement a forensic signature check is in Section 20. He mentioned what is done in Anchorage.

MR. APPLEBEE replied the sections combined give the division the ability to do what Anchorage does and to use software.

CHAIR SHOWER asked for confirmation that this addresses machine checking signatures against the database. The direction is that they "shall" do this.

MR. APPLEBEE answered yes, and cited the language in Section 22 that talks about using signature comparison software. He added that the division is given the authority to write the regulations to implement the process.

CHAIR SHOWER acknowledged that there is an associated cost, but it would allay concerns about by mail ballots.

SENATOR KAWASAKI described and expressed satisfaction with the signature verification process that he witnessed. He added that he did wonder what database the voter signatures come from.

CHAIR SHOWER offered his belief that the division uses multiple databases. He asked Ms. Fenumiai to comment.

[4:35:18 PM](#)

MS. FENUMIAI asked if he was referring to the Municipality of Anchorage process.

SENATOR KAWASAKI clarified that he was describing what he witnessed in Fairbanks during absentee ballot certification for the 2020 election.

MS. FENUMIAI advised that the ballots were verified against signatures the voters submitted to the Division of Elections at various times and on various documents. The signatures could have come from paper copies of voter registration forms, absentee by mail applications, or the signatures on file with the Division of Motor Vehicles (DMV).

CHAIR SHOWER added that using multiple databases addresses the problem that a voter's signature may change somewhat over time. He highlighted that voters whose signature is an "X" or "O" are generally accepted prima facie.

SENATOR KAWASAKI asked if part of the ballot curing process does or will accommodate voters whose name has changed due to a change in marital status or somebody who is signing with an "X" because they have a broken arm or are using their non-dominant hand.

MR. APPLEBEE replied all those situations come to mind in a discussion about how to define what is included in ballot curing.

CHAIR SHOWER commented that using the signature verification software highlights a problem. He noted that provisions in his

bill provide that a person would then look at the signature and make a determination about whether to contact the voter.

[4:39:14 PM](#)

SENATOR COSTELLO directed attention to the language on page 9, line 15 and asked: 1) whether the term "may" should be changed to "shall" and 2) who makes the decision to count a ballot when the voter has failed to properly execute the certificate.

MR. APPLEBEE deferred the question to Tom Flynn with the Department of Law.

[4:40:14 PM](#)

MR. FLYNN explained that as a matter of statutory construct, the term "may not" is obligatory, meaning that the ballot will not be counted.

SENATOR COSTELLO asked Ms. Fenumiai to confirm that the division interprets it that way because it does not seem very clear.

MS. FENUMIAI replied the division has been following the statute as written, and ballots are not counted based on the circumstances outlined in AS 15.20.203(b)(1)-(6).

CHAIR SHOWER said it is now on the record to show intent.

[4:41:24 PM](#)

MR. APPLEBEE continued the sectional analysis for SB 167.

Section 24: This section requires DOE to adopt regulations for routine forensic examinations and strict chain-of-custody protocols for precinct tabulators.

He acknowledged the need to clearly define "forensic examination."

CHAIR SHOWER highlighted that the voting machines for the 2020 election were not forensically tested and that should change going forward.

MR. APPLEBEE reviewed Sections 25-28 together.

Section 25: This section provides that unlawful interference with voting includes a person knowingly possessing another voter's ballot, unless the person is a family member, caregiver, election official, or delivery person.

Section 26: This section provides that unlawful interference with an election includes tampering with absentee ballot materials, ballots, and election machinery.

Section 27: This section creates the offense of election fraud, which is committed when a person commits unlawful interference with an election and causes the outcome of the election to change.

Section 28: This section provides that election official misconduct includes knowingly disclosing, before the polls close on election day, election returns or results to someone who is not an election official.

Section 29: This section requires that the official election pamphlet include the election offense hotline.

Section 30: This section requires that police officers receive more than four hours of training on detecting and investigating election offenses.

CHAIR SHOWER highlighted that this provision came about because he referred questions and concerns about the 2020 election to law enforcement for investigation and was told that was not in their purview.

SENATOR COSTELLO referenced the new language in Section 30 on page 18, lines 6-7. She pointed out that the number of hours of instruction is less important than the fact that the person is able to "demonstrate an understanding of" detecting and investigating election offenses. She offered to work with him on the language.

MR. APPLEBEE said it is a good suggestion.

CHAIR SHOWER voiced support for law enforcement getting the training that is needed.

[4:46:15 PM](#)

SENATOR KAWASAKI referenced the new language in Section 25 on page 14 relating to who can possess a ballot. He asked if this provision would prevent the League of Women Voters from organizing to pick up ballots at Pioneer Homes, which they did in the 2020 election and many elections prior to that.

MR. APPLEBEE offered his belief that this language would prevent that activity.

CHAIR SHOWER said the intent in his bill last year was to prevent professional ballot harvesters. He said he was willing to work with Senator Kawasaki and the administration to find language that would not prevent family members from helping one another or people in good faith who wanted to help.

[4:49:00 PM](#)

MR. APPLEBEE said the administration would be willing to work with him and Senator Kawasaki's office on acceptable language that achieves the intent.

MR. APPLEBEE continued the sectional analysis for SB 167.

Section 31: This section relates to PFD voter registration. It requires that the PFD application form include a way for applicants to request voter registration.

Section 32: This section requires the Department of Revenue to send DOE the records of those applicants potentially eligible to register who requested voter registration as described in section 31.

He noted that he addressed Sections 31 and 32 when he discussed Section 5.

Section 33: This section repeals the statute that allows voters to provide utility bills, government documents, and other alternate forms of identification. It also repeals the statutes that create the existing free access system for absentee ballots, because this system is replaced by the ballot tracking system added in section 23.

[4:50:33 PM](#)

SENATOR HOLLAND recalled that he saw somewhere that hunting and fishing licenses are accepted as valid forms of ID.

CHAIR SHOWER said it is in current statute and his bill last year attempted to delete that because people are not always required to show their identification when they apply for a hunting and fishing license and there is no verification process.

SENATOR HOLLAND said he did not recall where he saw it but it was today.

MR. APPLEBEE said the provision was inserted to initiate the conversation about what will work for voters in Alaska.

CHAIR SHOWER said the intention is to move Alaska into the 21st Century.

SENATOR COSTELLO directed attention to page 19, line 12, and asked Mr. Flynn if the term "may" should be replaced with "shall" to ensure that the regulations have been promulgated by the April effective date.

MR. FLYNN offered his understanding that the section about transition regulations is standard language for bills. He also confirmed that the term "may" is more appropriate because not everything needs regulations. He added that he would give it more thought.

SENATOR COSTELLO asked Ms. Fenumiai if it is realistic to think that the division will be able to promulgate regulations before the Act takes effect in April 2022 or if the division will need assistance.

MS. FENUMIAI offered her belief that the regulations that need to be promulgated should this legislation pass would need to be done in the emergency regulation process. They would be effective immediately and public comment would come afterwards. If the regulations are not made permanent after a certain number of days, they expire.

SENATOR COSTELLO asked if the language is sufficient to allow the emergency regulation process.

MS. FENUMIAI deferred the question to Mr. Flynn.

MR. FLYNN answered that the authority for emergency regulations comes from the Administrative Procedures Act and he believes that authority would extend to this situation.

MR. APPLEBEE mentioned the "may" versus "shall" discussion and highlighted that there are sections that clearly require the division to write regulations.

CHAIR SHOWER asked if he had concluding comments on the sectional analysis.

MR. APPLEBEE said the remainder of the bill contains standard language relating to effective dates and election crimes that only apply to the offenses committed after the effective date.

Sections 34-38 read as follows:

Section 34: This section provides for the applicability of the amendments to the election offenses in sections 25 - 28.

Section 35: This section authorizes DOE to adopt transition regulations.

Section 36 - 38: These sections provide that the signature matching sections (20 - 22), the ballot tracking and cure section (23), and the precinct tabulator regulation section

(24) take effect on July 1, 2022. The transition regulations section (35) takes effect immediately and the rest of the bill takes effect on April 1, 2022.

CHAIR SHOWER asked for a short analysis of the fiscal note.

[4:56:27 PM](#)

MR. APPLEBEE stated that the major expense in SB 167 will be the approximate \$5 million one-time cost to provide signature verification machines in all regional offices. There will also be continuing costs in the out years.

SENATOR KAWASAKI asked for assurance that the division will receive the revenue it needs for the toll free 800 number and the staff necessary to answer the questions that come in.

MR. APPLEBEE said yes and the fiscal note will be revised accordingly as language from the Chair's bill is incorporated into SB 167.

[4:57:59 PM](#)

CHAIR SHOWER held SB 167 in committee.

HJR 16-HMONG VETERANS MILITARY RIGHTS

[4:58:28 PM](#)

CHAIR SHOWER announced the consideration of HOUSE JOINT RESOLUTION NO. 16 Encouraging the United States Congress to pass legislation granting the Hmong veterans of the Vietnam War

access to the same veteran benefits received by United States veterans.

He opined that many Americans do not understand or appreciate the service the Hmong people provided during the Vietnam War. He noted that Vietnam veteran Representative Laddie Shaw saw half of his college class die in Vietnam. The point is that many of the Hmong who served in combat alongside U.S. service members put their lives on the line and saved an uncalculated number of lives. They were fierce warriors who served with distinction.

4:59:57 PM

REPRESENTATIVE DAVID NELSON, Alaska State Legislature, Juneau, Alaska, sponsor of HJR 16, introduced the legislation reading the following sponsor statement:

[Original punctuation provided.]

HJR 16 encourages the United States Congress to fulfill the promises made to the Hmong soldiers during the Vietnam War and grant them access to the same veterans' benefits received by the United States veterans.

In the 1960's over 100,000 Hmong soldiers were recruited by the United States Central Intelligence Agency to help the United States soldiers in the fight against communism. The Hmong warriors fought to intercept and prevent the flow of troops and supplies along the Ho Chi Minh Trail, and approximately 40,000 were killed as they supported and protected United States Armed Forces during combat missions.

The Hmong warriors were heavily outnumbered, however continued to fight, gather critical intelligence about enemy operations, and continued to undertake rescue missions to save the lives of downed United States pilots.

The Hmong soldiers suffered acts of retribution and atrocities at the hand of the Pathet Lao and North Vietnamese causing many to flee to Thailand. These soldiers became refugees because the United States government encouraged them to fight on behalf of the United States.

The Hmong people fought bravely in what was called the "Secret War", and for their loyalty were promised access to the same veteran benefits as those received by the United States veterans. The Hmong people have put their faith and trust in the United States government, and we are requesting that the promises made to those who risked everything for our country be honored. We must recognize how much the Hmong veterans gave and lost for our country and support HJR 16.

5:01:49 PM

SENATOR HOLLAND requested more specific details on the benefits he was requesting.

REPRESENTATIVE NELSON replied Hmong veterans have recently been granted the option to be buried at national cemeteries and the resolution is requesting veteran affairs benefits including hospital access and being allowed on military bases to shop at the Post Exchange (PX).

CHAIR SHOWER opined that the nation should keep the promises it makes to people who are asked to serve alongside the U.S. military. That has not always happened and that needs to change because it has created an environment of mistrust.

He asked Representative Shaw if he would like to talk about what he saw during the Vietnam War and why this is important.

5:04:22 PM

REPRESENTATIVE LADDIE SHAW, Alaska State Legislature, Juneau, Alaska, stated that as a Navy SEAL during the Vietnam War he served in the Mekong Delta and the Hmong community was his lifeline. He continued to state:

When we went out to gather intel, we seldom went out without a Hmong soldier with us. They would even convince the Viet Cong to turn over and be a Kit Carsen scout for us to benefit our intel gathering. And as was noted, the amount of Hmong soldiers that gave their lives, the retribution as we were leaving in 1975, probably took just as many family lives by the Viet Cong and the North Vietnamese as soldiers that were lost.

When I was director of the Division of Veterans Affairs back in my state employment days, we spent

about two years to get benefits for the Alaska Territorial Guard. Talk about soldiers forgotten; these were men who left their families at 14 or 15 years old to serve their country and to sacrifice basically for their homeland the coast of Alaska. And we ended up getting full military and veteran's benefits for the Alaska Territorial Guard. We were able to bring together their time as Territorial Guardsmen and some active duty time that they had put with the National Guard. And one of our individuals, Sam Herman, was 74 years old when he finally got a retired military ID card. The emotions to this day were absolutely overwhelming.

REPRESENTATIVE SHAW said we gave benefits to one group of people that sacrificed for this country and we should do it for the Hmong people who are just as if not more deserving. He thanked the committee for the opportunity to comment.

CHAIR SHOWER noted that public testimony was not noticed for the bill and asked committee members if it was permissible to waive public testimony and move the bill today.

SENATOR COSTELLO offered her belief that public testimony could be opened and closed after discerning whether or not anyone wanted to testify. She added that the committee could take a brief at ease and ask those who may know.

CHAIR SHOWER said he wanted this to be transparent and follow the rules.

[5:08:04 PM](#)

At ease

[5:09:47 PM](#)

CHAIR SHOWER reconvened the meeting. He explained that he called the at ease to check on procedures to ensure he was following the rules to move the resolution.

He asked the sponsor if he had closing comments.

[5:09:57 PM](#)

REPRESENTATIVE NELSON drew attention to the support and oppose letters in the packets. He said the Hmong community in Alaska has written many letters in enthusiastic support of the resolution. It is extremely meaningful to the Hmong veterans who

served during the Vietnam War. He noted the supporting letters include some personal stories.

CHAIR SHOWER noted that he mentioned support and oppose, but he saw no letters in opposition to the resolution.

REPRESENTATIVE NELSON clarified that there were no letters in opposition to HJR 16.

CHAIR SHOWER mentioned the zero fiscal note.

REPRESENTATIVE NELSON agreed.

[5:11:10 PM](#)

CHAIR SHOWER restated that moving HJR 16 was not planned but "everybody agrees that's the best course of action." He solicited a motion.

SENATOR COSTELLO moved to report HJR 16, work order 32-LS0795\B, from committee with individual recommendations and attached zero fiscal note(s).

[5:11:31 PM](#)

CHAIR SHOWER found no objection and HJR 16 was reported from the Senate State Affairs Standing Committee.

[5:12:16 PM](#)

There being no further business to come before the committee, Chair Shower adjourned the Senate State Affairs Standing Committee meeting at 5:12 p.m.