

LEGAL SERVICES

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MEMORANDUM

July 14, 2009

SUBJECT: Committee hearing during the interim on confirmation

TO: Representative Max F. Gruenberg, Jr.

FROM: Tamara Brandt Cook
Director

(1) May a standing committee hold a hearing during the interim on Governor Sarah Palin's designation of Lieutenant General Craig E. Campbell as successor to the office of lieutenant governor? If so, may the committee take any action?

Under Uniform Rule 21(c), standing committees have been given broad authority to meet between sessions. A standing committee could hold a hearing to consider the designation for the purpose of providing information to the committee members and others who may be in attendance.

Any question may be referred by a house of the legislature to one or more of its committees. As noted in Mason's Manual, sec. 378(2): "In legislative bodies it is good practice to refer every main question to a committee for its consideration unless immediate action is required." Referral of a question before a house is made while the legislature is in session, by the presiding officer or by motion of a member of the house. Since the legislature is not in session, the question of confirming a new designee to succeed to the office of lieutenant governor has not been referred to any committee. Therefore, there is no question before a standing committee upon which the committee may act by reporting the question back with its recommendations.

(2) Does the Judiciary Committee have jurisdiction over the question of confirming the governor's new designee?

Under Uniform Rule 20, the Judiciary Committee has jurisdiction over "the programs and activities of the Alaska Court System and the Department of Law, and the legal and substantive review of bills referred to it for that purpose". Along with the Court System and the Department of Law, the jurisdiction of the Judiciary Committee extends to bills on any subject that are referred to it. However, the confirmation issue is not a bill. The Judiciary Committee could be deemed to have jurisdiction over the confirmation of the Attorney General because of its responsibility for activities of the Department of Law, but it has no jurisdiction over the governor's appointment generally or over the Office of the Lieutenant Governor specifically. Indeed, no standing committee has specific

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jurisdiction over the Office of the Lieutenant Governor. Note that, under AS 44.19.010, the Office of the Governor includes the lieutenant governor.

On the other hand, the State Affairs Committee has, among other things, jurisdiction over "programs and activities of the Office of the Governor." Since confirmations generally involve consideration of an activity of the governor, exercise of the executive power of appointment, and this confirmation involves appointment of a designee to the lieutenant governor who is in the Office of the Governor rather than a commissioner or a board within a department that has been assigned to the jurisdiction of another committee, it would appear that the State Affairs Committee has jurisdiction under the rule over a confirmation involving a successor to the office of lieutenant governor.

In the House, Governor Palin's previous designee appointment of Talis Colberg was referred to the House State Affairs Committee. 2007 House Journal page 174 (February 7, 2007). Her designation of Joe Schmidt was handled by the House Judiciary Committee. 2009 House Journal page 300 (February 23, 2009).

Note that Uniform Rule 21(c) provides: "A standing, special, or joint committee which acts between legislative sessions may consider any legislative matter which is consistent with the jurisdiction of the committee." The rule provides broad authority for a standing committee to meet during the interim and, specifically, authority to consider matters consistent with its jurisdiction, but there is no specific authority for a standing committee to consider a matter that is not within its jurisdiction. The jurisdiction of a committee may be broadly considered to consist of those matters that fall within its jurisdiction under Uniform Rule 20, bills and other matters that have been referred to the committee, and matters that that been assigned to a committee by statute, such as AS 24.05.182 (review of administrative regulations) or AS 24.08.060(a) (measures under consideration for introduction by the committee). However, as a matter of practice, a standing committee has rather freely considered matters of legislative concern that are not specifically within its jurisdiction and that practice has not often been objected to or curtailed.

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