

HOUSE FINANCE COMMITTEE
April 10, 2001
2:00 PM

TAPE HFC 01 - 79, Side A
TAPE HFC 01 - 79, Side B
TAPE HFC 01 - 80, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 2:00 PM.

MEMBERS PRESENT

Representative Bill Williams, Co-Chair
Representative Eldon Mulder, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Jim Whitaker

MEMBERS ABSENT

Representative Carl Moses
Representative Richard Foster

ALSO PRESENT

Representative Fred Dyson; Representative Gretchen Guess; Wess Keller, Staff, Representative Fred Dyson; Bruce Johnson, Deputy Commissioner, Department of Education and Early Development; Eddy Jeans, Manger, School Finance and Facilities Section, Department of Education and Early Development; Sarah Felix, Deputy Attorney General, Department of Law; Joe Balash, Staff, Senate State Affairs Committee.

PRESENT VIA TELECONFERENCE

Brooke Miles, Alaska Public Officers Commission, Anchorage; Susie Barnett, Administrator, Select Committee on Legislative Ethics, Anchorage; Debbie Ossiander, Anchorage School Board, Anchorage; Darroll Hargraves, Alaska Council of School Administrators; Larry Semmens, Aurora Borealis School, Kenai; Pat Hickey, Kenai Peninsula School District, Kenai; Avrum Gross, Juneau;

SUMMARY

HB 101 "An Act relating to charter schools; and providing for an effective date."

HB 101 was heard and HELD in Committee for further consideration.

HB 193 "An Act relating to the primary election; and providing for an effective date."

HB 193 was heard and HELD in Committee for further consideration.

HB 203 "An Act making an appropriation to the Legislative Council for a study of school district cost factors; and providing for an effective date."

CSHB 203 (FIN) was REPORTED out of Committee with a "do pass" recommendation.

CSSB 103(FIN)

"An Act relating to election campaigns and legislative ethics."

CSSB 103(FIN) was heard and HELD in Committee for further consideration.

#hb101

HOUSE BILL NO. 101

"An Act relating to charter schools; and providing for an effective date."

REPRESENTATIVE FRED DYSON, SPONSOR, testified in support of HB 101. He noted that the legislation is nearly identical to a bill, which nearly made it through the legislation in the past year. He maintained that state of Alaska's charter school law is among the weakest in the nation.

Representative Dyson discussed changes to the existing charter school law in HB 101. He observed that the bill eliminates the 2005 sunset clause. It also extends the allowable contract length from 5 to 10 years and eliminates the geographic distribution requirements. The legislation clarifies that charter schools are not exempt from competency testing.

Representative Dyson observed that the previous legislation mandated that school districts provide an accounting statement for student allotment and local contributions. This has been eliminated. The new legislation also abandons the attempt to mandate distribution of a pro-rated share of local contributions to charter schools.

Representative Dyson explained that the legislation would allow charter schools to be counted as a separate school if

the ADM is over 150 (AS 14.17.905). He emphasized that charter schools tend to be small and that this would allow them to receive the same funds as other schools in the district per student. The legislation also provides a one-time 'start-up" grant of \$500 dollars per person and allows for charter school use of safe public buildings with district superintendent approval.

Vice-Chair Bunde observed that charter schools funds come from the district's total state support. The legislation would free funds for the district.

Representative Croft questioned if the legislation is a cost shifting measure. Representative Dyson acknowledged that the fiscal note would provide an additional \$2 million dollars to education.

REPRESNTATIVE GRETCHEN GUESS emphasized that the legislation would provide additional funds; funds would not be shifted from one district to another.

Co-Chair Williams observed that the sunset would be in the year 2005. He questioned if charters have to be for 5 years.

WESS KELLER, STAFF, REPRESENTATIVE FRED DYSON, explained that current contracts could not exceed 2005. New contracts would not exceed the sunset date.

Vice-Chair Bunde asked if the money would only go to districts that have charter schools.

Representative Guess replied that the fiscal note has two parts: the startup grant and a change to the foundation formula. The funds would go to the school district. School districts without a charter school would not receive funds.

Vice-Chair Bunde pointed out that a school district would not be legally bond to provide the additional funds to the charter school, but acknowledged the moral obligation.

Representative Dyson maintained that the State Board of Education and Department of Education and Early Development would track the funding. Vice-Chair Bunde observed that accountability would come through parent feedback. Representative Dyson acknowledged that there is no specific report to the legislature, but emphasized parent involvement.

Representative John Davies asked what the fiscal impact would be if the number for full funding eligibility was dropped from 150 to 100 students. Representative Dyson understood that there would be three more schools added under the change to 150 students. He estimated that this would be increased by a multiple of 2 or 3. Representative

Guess interjected that it would result in a decrease in the foundation formula.

Representative John Davies assumed that if the fiscal note were approved, there would not be an objection to lowering the number. Representative Dyson stated that he would not object if the charter school legislation were not adversely affected.

Representative Lancaster asked if there were a need to double the number of charter schools to 60. Representative Dyson maintained that the change is needed. He estimated that there would be 45 or 50 schools in the next two years if the legislation is passed. He observed that the University of Alaska would like to start three schools to be used as laboratory schools. He reviewed a number of proposals with different emphasis such as preserving local languages and addressing deaf students.

Representative Hudson referenced correspondence schools. He asked if the legislation would affect correspondence schools. Representative Dyson stated that there is concern that students not "double dip".

Co-Chair Mulder referenced SB 36 and noted that the hard count provides a name with a number, which makes it more difficult to cheat.

Co-Chair Williams observed that charter schools have closed. Representative Dyson noted that his daughter worked in the Anchorage charter school, which recently closed. He maintained that the school would have been successful with a lower student count. Funding killed the school.

BRUCE JOHNSON, DEPUTY COMMISSIONER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, observed that the State Board supports the mission of charter schools in assisting in the general improvement of education. The Board supports efforts to assure that charter schools receive a fair share of funding, including reasonable startup funding and urges that the startup funding be new money. The Board supports the elimination of geographical restrictions and the designated number of charter schools in urban communities. The Board observed that it has taken 5 years to reach the current number of 17 schools and does not believe that the number needs to be expanded at this time. The Board noted that the number could be expanded at a future time.

Vice-Chair Bunde referred to the fiscal note.

EDDY JEANS, MANGER, SCHOOL FINANCE AND FACILITIES SECTION, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, affirmed that funding would go directly to the school district. Each charter school negotiates a contract with the school

district for administrative overhead. The Department calculates basic need for each charter school based on the number students.

Vice-Chair Bunde clarified that a school district without a charter school would not receive funding from the legislation.

Representative John Davies agreed, but pointed out that school districts would receive the same amount of funds per student. Mr. Jeans pointed out that some of these students would be home schooled without a charter school option. Home-schooled students do not generate money for the school district through the foundation formula. Funding depends on school size. If a student were enrolled in a charter school the funding would go to the district. The district and the charter school would negotiate a contract to distribute the funds. The statute, as it is currently written, allows the school district to take indirect costs for administrative expenses from the funding generated by the charter school. Through the negotiation of the contract, the charter school may elect to give the district additional money for services such as special education and library services.

Representative John Davies questioned the fiscal cost associated with a school size change of 100 students. Mr. Jeans emphasized that he could only make a rough guess and replied that the cost for the additional four schools identified would be \$2 - \$2.7 million dollars. He explained that the students are already in the charter school, but because they are under the 200-student threshold they are being counted in the largest school in the district, which is the high school, which generates the least amount of money. Below 100, the adjustment would be substantial.

Representative Hudson asked the positive and negative impact of the charter schools. He observed that the funding flows to the school district. He asked if the school district would have responsibility for oversight to make certain the educational program is qualified and performing as it should. Mr. Jeans emphasized that the charter schools are still public schools and school districts have juristic diction over those schools. He added that the same students would generate less money if they were added to the larger school where they receive less per student. Charter schools can generate more money per student if they meet the 200-student level.

Mr. Johnson stressed that children are better educated when their parents are involved in their education. There are distinct educational advantages to having a choice.

Representative Hudson questioned if there is any requirement for additional parental economic involvement in charter

schools. Mr. Johnson emphasized that charter schools are still public schools and all students are entitled to a free public education. Charter school students are not currently provided with transportation through the state transportation system. The State Board believes that transportation should be provided so that the option is available to every family regardless of their capacity to get their child to the charter school. The lack of transportation may result in a more select population.

In response to a question by Co-Chair Williams, Mr. Johnson observed that parents are choosing charter school opportunities for an entire host of reasons, such as school size or special needs. All of the schools are "starved" for money. He observed that the "dreamers" that start the school become weary because they cannot buy relief from the seven day a week commitment that they were willing to make for the first three years. As the founders leave and others take over the schools go into crisis if they do not have adequate financial resources to buy services.

Co-Chair Williams noted the cost of providing charter schools with a \$500 dollar per person start up grant. Mr. Jeans replied that startup cost would be \$1.2 million dollars for one-time grants. Grants could be used for rent, books, desks and other costs. Mr. Johnson interjected that some school districts can afford to assist with startup costs and others cannot. The intent is to assist schools with basic needs. Mr. Jeans clarified that every school would be entitled to the one-time startup funds, including those that are currently operating.

DEBBIE OSSINANDER, ANCHORAGE SCHOOL BOARD, ANCHORAGE, spoke in support for the proposed legislation. Charter schools are an important new direction that allows greater choice to families and helps facilitate parent directed education. She noted that charter schools have many challenges. She stated that the bill would bring greater flexibility for housing children. She stressed the challenges in providing starting up costs. She noted that it is the Anchorage School Board's intent to financially support charter schools.

DARROLL HARGRAVES, ALASKA COUNCIL OF SCHOOL ADMINISTRATORS, testified that superintendents do not oppose the bill. He spoke in support of the extension to 60 schools statewide. Charter schools would be subject to the same competency test as the rest of the public school system. He testified in support of the charter extension and noted that the original five-year deadline was about up. The five-year sunset was originally put in place to judge the success of the schools.

LARRY SEMMENS, AURORA BOREALIS SCHOOL, KENAI testified via teleconference in support of the legislation. He noted that their students perform well on tests. There is a 200-student

waiting list. The school plan is to expand to 200-students, but classroom space is not immediately available. He noted support for the contract term extension, elimination of the sunset date and additional funding per student. He spoke against the penalty for schools under 200 students. The 200-student penalty adversely affects district funding; it costs the Kenai Peninsula Borough School District up to \$7,000 dollars a student. He maintained that parent involvement results in success in education and that charter schools can make a difference for education in Alaska.

Representative Lancaster referred to pupil transportation. Mr. Semmens noted that parents transport their students, some at great distances.

HB 101 was heard and HELD in Committee for further consideration.

#hb203

HOUSE BILL NO. 203

"An Act making an appropriation to the Legislative Council for a study of school district cost factors; and providing for an effective date."

REPRESENTATIVE PEGGY WILSON, SPONSOR testified in support of the legislation. She explained that the legislation sets aside \$350.0 thousand dollars for a class differential study on school district cost factors. The state of Alaska has a constitutional obligation to provide for a full education for all students.

TAPE CHANGE, HFC 01 - 79, SIDE B

Representative Wilson observed that the economic status of different areas of the state have changed since 1986. School district cost factors were last changed in 1986. She maintained that the current formula, while well intentioned, has unintentional consequences. A design error, which tracked expenses as opposed to actual costs of doing business in each school district, has resulted in flawed district cost factors. Failure to precisely measure differential costs across the state has resulted in inequitable funding.

Representative Wilson noted that many questions remain unanswered such as: What is the cost of providing an education in each school district as it relates to Anchorage as a base? What are the exact costs of electronic communications in Yakutat? What is the specific cost of fuel in Dillingham? What are the property insurance rates in Tok? What does it cost to get a school fire code inspector to Angoon?

Representative Wilson maintained that HB 203 would provide

factual answers to these questions. HB 203 proposes an independent study of school cost differentials. She stressed the need to assess actual costs in each school district.

Vice-Chair Bunde expressed support for the study, but questioned the difference between the costs of doing business and the cost of providing education.

Representative Wilson noted that the cost of doing business differs from school district to school district depending on the access to services.

Vice-Chair Bunde suggested that section 1 be changed to the "cost of providing an education in each school district" as opposed to the "cost of doing business."

Representative Wilson suggested the addition of "it shall be completed by contract" on page 2, line 5. She did not want the study to be left to the Department of Education and Early Development or a committee.

Representative John Davies suggested the substitution of "operating a school" for "doing business" on lines 9 and 12. Representative Wilson did not object to the recommendation.

Representative Davies MOVED to insert "operating a school" and delete "doing business" on lines 9 and 12.

Representative Croft argued in support of the use of "providing an education". He pointed out that it would be possible to operate a school without doing a good job of providing education. He added that it would be necessary to operate a school in order to provide education.

Representative John Davies pointed out that operating a school includes hiring faculty.

Vice-Chair Bunde summarized that the intent is to distinguish between the cost of running a business and the cost of education. Co-Chair Williams agreed that the question is the actual cost of the school.

Representative Whitaker questioned if the intent is to distinguish the cost of operating a school in terms of maintenance and operation of a school facility or the cost of providing an education. He emphasized that that intent is to determine the cost of providing an education. He suggested that "operating a school" may be too restrictive.

Representative Davies MOVED to AMEND Amendment 1 to insert "providing an education" on line 9. "Operating a school" would be retained on line 12 and insert "actual" at the end of line 11. There being NO OBJECTION, the amendment to Amendment 1 was adopted:

The study

(1) should be based on the cost of providing an education in each school district;

(2) should consider the cost of living, including the cost of food, housing, utilities, transportation, medical expenses, property values, or other costs that contribute to the actual cost of operating a school.

There being NO OBJECTION, Amendment 1 as was adopted as amended.

Representative Croft MOVED to ADOPT Amendment 2: On page 2, line 3 insert "shall" and delete "may"; and on page 1, line 5 delete "prepare or." He explained that the amendment would take out the option of doing the study by any manner other than a contract.

Representative Wilson questioned if the date should also be changed to allow more time for the study to be completed. Representative Hudson argued in support of retaining the date and pointed out that the following year would be the second year of the legislature.

Vice-Chair Bunde agreed with the intent of having the Legislative Council contract for the study. He pointed out that there may be some expense involved to assure that there are appropriate guidelines for a contract.

Representative John Davies MOVED to AMEND Amendment 2: delete "or" and insert "and" (to prepare and contract for the preparation of a study). There being NO OBJECTION, the amendment was adopted. There being NO OBJECTION, Amendment 2 was adopted as amended.

Representative Whitaker questioned if the review would be done on a periodic and regular basis. Representative Wilson observed that SB 36 required a two-year review.

Representative Wilson referred to a study by the McDowell Group, which was compiled in relationship to SB 36. The study recommended that the current district cost factors be maintained and that the department's effort be placed in reexamining the methodology. She emphasized that the intent of HB 203 is to make sure that the guidelines are different and the actual cost to educate a child in each district is ascertained, so that the differences can be reviewed. She added that the Department of Education and Early Development and the Education's Foundation Task Force recommended a similar study.

Representative John Davies expressed concern with page 1 line 6. He MOVED to ADOPT Amendment 3: delete "the preparation of a study of the district cost factors used as

a component" and insert "preparation of a study recommending district cost factors to be used as a component". The change would clarify that the intent is not just a study of existing factors, but that there should be recommendations for how it should be fixed. There being NO OBJECTION, it was so ordered.

PAT HICKEY, KENAI PENINSULA SCHOOL DISTRICT, KENAI testified via teleconference. He noted that the Kenai Peninsula Borough contains urban and rural areas. He encouraged the contractors to take into full account the differences by attendance areas and not just consider the district as a whole. He noted that the cost of providing an education in some small communities have already been compensated for by economy of scale factors by size, but tend to be diffused by a district wide application of an area cost factor.

DARROLL HARGRAVES, EXECUTIVE DIRECTOR, ALASKA COUNCIL OF SCHOOL ADMINISTRATORS testified via teleconference. He spoke in support of the legislation. He pointed out that cost differential studies have been done in a true attempt to determine the cost of doing business in different geographical areas of the state. The audits of school districts were used in SB 36 in an attempt to assess what school districts were actually spending. He pointed out that a school district, which held tough on salaries though negotiation would be disadvantaged. The cost differentials were based on what "is" not on the "true" costs of doing business. He recounted a gift from an oil company of computers. He tried to ship the computers to one community and found that they could only be shipped strapped into the passenger seats at the full price of a passenger transport. Another school district was able to pick up the computers at no cost. He concluded that there are true costs of doing business from one community to another. He emphasized that the cost differentials must reflect true costs. He maintained that cost differentials in SB 36 were in error.

EDDY JEANS, MANGER, SCHOOL FINANCE AND FACILITIES SECTION, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT spoke in support of the legislation. The department would like to be involved in the development of the RFP to assure that all the cost factors are looked at and considered. The department would also like to assure that a methodology results in a tool that can be used on an ongoing basis to update the cost differentials as required by statute. The Department of Education and Early Development was not involved in the last selection. The Legislative Budget and Audit Committee contracted the last selection.

Representative Hudson noted that nothing would preclude consultation with the Department of Education and Early Development on the RFP. He did not think that (consultation with the department) needed to be in the legislation but

expressed a desire that the contractor confer with the department in determining what elements should be brought forward in the contract.

Representative Croft observed that the Department of Education and Early Development was not consulted last time and pointed out that serious mistakes were made. He felt that it should be in the intent language.

Representative Whitaker maintained that the intent is to strike a balance and determine a basis for the equitability of the formula. If the project becomes too vast and "potentially politically involved" then it would be a disservice. He added that it would also be a disservice if the study does not provide for input that is meaningful. He suggested that the intent should be carefully worded.

Representative Hudson MOVED to ADOPT Amendment 4: add a new subsection: (6) Shall confer with the Department of Education and Early Development in preparation of the RFP for this study.

Representative Guess pointed out that a new subsection would refer back to the study. She suggested that the language would be in the wrong place.

Representative John Davies suggested an amendment to Amendment 4, to add the language on page 1, line 5: insert after "Council" "in consultation with the Department of Education and Early Development".

Representative Hudson WITHDREW Amendment 4. Representative Davies MOVED to ADOPT amended Amendment 4, by Representative Hudson: insert after "Council" "in consultation with the Department of Education and Early Development". There being NO OBJECTION, it was so ordered.

Representative Guess noted that five states have cost differentials, each with different methodologies. There is no agreement on the best way to determine an education price index. New research shows that an expenditure-based model is the worst way. She discouraged the use of an expenditure-based model. She acknowledged the difficulty of producing an unbiased model but emphasized the creation of a clear model. She spoke in support of a cost differential that is updateable with data outside of the department.

Representative Hudson MOVED to report CSHB (FIN) out of Committee.

CSHB 203 (FIN) was REPORTED out of Committee with a "do pass" recommendation.

#hb193

HOUSE BILL NO. 193

"An Act relating to the primary election; and providing for an effective date."

AVRUM GROSS, JUNEAU, stated that he was a member of a task force appointed by the Lieutenant Governor to address the fact that the state's primary election law ceased to exist, after the last primary, due to a decision of the United States Supreme Court (California Democratic Party et al. v. Jones, Secretary of State et. Al.. (530 U.S. 567, 2000). He added that emergency regulations, which responded to the decision, expired.

Mr. Gross explained that the Court ruled that, while states with blanket primaries could continue, political parties had the right to change the rules to limit participation. Alaska has operated under blanket primary law. The task force was established to deal with the fact that parties have to have input into who would participate in the selection of their candidates. He reviewed the makeup of the task force and concluded that it was nonpartisan.

The Task Force's intent was to make the minimal change necessary to existing law. Public testimony was taken from all parties and the Department of Law. The recommendation of the Task Force was that all voters be allowed to vote in a party's primary unless the party notified the lieutenant governor, by September 1, that the primary would be closed. To the extent that party registration was an issue, the registration would have to be established 30 days before the election, which is the deadline for voter registration. He indicated that the proposal received support from the major parties. A blanket primary was chosen because it was traditional in Alaska and it would allow the maximum number of people to participate in the primary. The state would stand for maximum participation subject to a party's right to close. The original bill [based on the Task Force's recommendations] was changed in the House State Affairs Committee and the process reversed. Under the House State Affairs version, all primaries would be closed (only Republicans could vote in republican primaries and only Democrats could vote in democratic primaries) unless their party opened the primary.

The House Judiciary Committee further amended the legislation to state that independents could also vote in a party's primary.

Representative John Davies observed that the HJUD version partially opened the primary and questioned if a political party could chose to close their primary to independent voters. Mr. Gross affirmed that they could close their primary to independents. He summarized that the HJUD version allows parties to close or open their primaries as they see

fit. The original bill opened primaries and required action by a party to close them.

In response to a question by Representative Lancaster, Mr. Gross clarified that once a change occurs it remains in force until the party changes it. Changes must occur by September of the proceeding year. This provision was also contained in the original task force bill.

TAPE CHANGE, HFC 01 - 80, SIDE A

In response to a question by Representative Hudson, Mr. Gross clarified that a [candidate] could not chose to allow all voters if their party restricted the ballot.

Mr. Gross observed that the more a primary is narrowed the "purer" the candidates become, but emphasized that "at the same time the less chance they have to win a general election because they don't have support from a large number of people."

Representative Whitaker clarified that a party's ballot would be open to nonpartisan and undeclared voters unless the party closes it. Mr. Gross agreed and interjected that it would not be open to any other registered party members.

Co-Chair Mulder noted that the Court decision requires action by the Legislature.

Representative John Davies observed that Court's action was in response to requests by the Republican and Democratic parties in Alaska and other states. Mr. Gross observed that an initiative in California began the [court's involvement in] blanket primary law.

SARAH FELIX, DEPUTY ATTORNEY GENERAL, DEPARTMENT OF LAW provided information on the legislation. She explained that a question arose during deliberations in the House Judiciary Committee regarding "no party" petition candidates on primary election ballots. Under current law, unaffiliated candidates overlooked must appear on the primary ballot. The House Judiciary Committee decided that they would not appear on the primary election ballot. Unaffiliated candidates would only appear on the general election ballot. She noted that an amendment to AS 15,25,150, the filing deadline, is needed. The filing deadline was left at June 1. If "no party" candidates do not appear on the primary ballot the deadline would not be June 1. The filing deadline should be the date of the primary election. Legal opinions have indicated that "no party" candidates could be held to a earlier filing date.

Co-Chair Mulder stated his intention to entertain an amendment to address the issue.

Ms. Felix explained that "no party" candidates are those that do not belong to a recognized political party. Some may belong to a political group, which is an organization of people of a political affiliation that has not achieved the status of a recognized political party and some may not be representing any group. Alaska has six recognized political parties. Discussion ensued regarding the qualifications of recognized parties.

Co-Chair Mulder observed that under the amendment certification would be required by the primary election date in order to be eligible for the November election.

Representative John Davies MOVED to ADOPT a conceptual amendment to move the date in AS 15.25.150 to be consistent with the primary election date for filing for "no party" candidates. There being NO OBJECTION, it was so ordered.

HB 193 was heard and HELD in Committee for further consideration.

#sb103

CS FOR SENATE BILL NO. 103(FIN)

"An Act relating to election campaigns and legislative ethics."

JOE BALASH, STAFF, SENATE STATE AFFAIRS COMMITTEE testified in support of the legislation. He observed that Senate Bill 103 is largely a clean-up bill to address conflicts and concerns that have arisen in the campaign finance and legislative ethics statutes. It also incorporates administrative rulings made by the Alaska Public Offices Commission (APOC) and informal advice given by the Legislative Ethics Committee. He noted that the legislation includes provisions to:

Require a single form for public disclosures.

Treat multiple groups controlled by a single candidate as a single group for purposes of the contribution limit.

Eliminate the public office expense term accounts (POET) reserve mechanism, so that there is a single POET account for legislators and successful candidates.

Expand the amount of personal property that can be carried forward after an election and to include photographs and seasonal greeting cards.

Define contributions to exclude certain services such as attorney and accounting services, mass mailings by parties and newsletters to constituents.

Mr. Balash added that changes were made to the use of public assets and resources for non-legislative purposes, such as: preparing seasonal greeting cards, transporting personnel computers, photographs, solicitation and acceptance of donations for non political charities, writing newsletters, use of offices before and after session. The legislation also clarifies the prohibition on the use of public assets and resources by legislators and legislative employees for nonlegislative purposes and certain previously prohibited public political uses. The legislation allows legislators to give and receive the gift of transportation from one another.

Co-Chair Mulder observed that there is a focus on advocacy for constitutional amendments. He maintained that the people who are the most knowledgeable [legislators] could disseminate information but would not be able to use their office to solicit funds. Mr. Balash clarified that they would not be able to use their office to solicit or accept campaign contributions, use their phones to call up potential donors, or use staff to send out [campaign or election] mailings. They could prepare speeches and ask groups to support the amendment along with them.

Co-Chair Mulder clarified that legislators could ask support for constitutional amendments. The legislation only limits the use of their staff and office [to elicit support for a constitutional amendment].

Representative John Davies referred to the POET Reserve Account. Mr. Balash noted that the POET Reserve Account was created in response to concerns regarding tax implications. He noted that with the limitations [contained in the legislation] the POET Account is considered a business expense, just like any other business expense, for tax purposes. If the full amount in the POET Account were carried forward it would not count against the legislator on their personal income tax. The POET Reserve Account was removed since there is no threat of taxation.

Representative John Davies questioned if tax status changes are being made. Mr. Balash explained that there was never a tax liability on the money. Representative John Davies noted that the APOC had advised legislators that there were tax implications.

Mr. Balash noted that changes to the existing POET Account limitations were made on page 4, lines 24 - 27. The POET Reserve Account was appealed on page 12, line 24.

Representative Davies referred to page 7 line 10: communication in form of a newsletter. He observed that he does not send newsletters in an election year later than

early July. He expressed concern with the allowance of newsletters in an election year and felt that it would allow abuse. He recommended limiting the time that newsletters are allowed when a legislator is up for election and questioned if the sponsor would support a July 15th deadline. Mr. Balash observed that many state issues come to the forefront of voters' minds in the months preceding an election, which are not present at other times.

Co-Chair Mulder summarized that a newsletter from a legislator to their constituents would not be a contribution.

Representative John Davies felt that it would be inappropriate to use office accounts to send newsletters close to an election. He maintained that any time a picture is sent it is a campaign device. He acknowledged that the legislation might not be the appropriate place to address his concerns. He suggested that July 15, would be the appropriate cutoff date.

Co-Chair Mulder stated that he did not disagree with the point made by Representative Davies.

Representative Davies suggested that there could be confusion relating to a newsletter as a contribution to the campaign. He added that there would be ethics questions regarding campaign related use of the office account. He felt that the issue should be clarified. Co-Chair Mulder suggested that Representative Davies work on an amendment.

Representative John Davies provided members with Amendment 1 (copy on file). Amendment 1 would address campaign contribution reports and allow the campaign to file reports on behalf of the contributor. The contributor would retain responsibility to assure that the report has been filed. The filing would follow the same time lines. Co-Chair Mulder did not object to the amendment.

Representative Hudson agreed and pointed out that the intent is disclosure.

Co-Chair Mulder agreed and noted that contributors could be informed that the report was filed on their behalf when legislators send their thank you notes.

BROOK MILES, EXECUTIVE DIRECTOR, ALASKA PUBLIC OFFICERS COMMISSION testified via teleconference. She noted that while many of the provisions of SB 103 can fairly be considered, "clean-up" other sections do not fall within that description, but rather constitute a significant change to the campaign disclosure law.

Ms. Miles identified areas that will result in administrative costs, loss of public information, and confusion to both filers and members of the public.

Section 1 contains a legislative mandate that the Commission develop only one form to be used for financial disclosure filing. Ms. Miles noted that AS 24.60 requires Legislative Financial Disclosure statements from all 60 legislators, the 5 public members of the legislative ethics committee and three legislative directors; AS 39.50 requires Public Official Financial Disclosure reports from over 2000 executive branch and municipal officials, and candidates for state and municipal office.

Ms. Miles observed that these statutes are not exactly alike. They differ in three significant ways. Legislators are required to disclose dollar amounts for sources of income and loans that have a substantial interest in legislative, administrative, or political action. No such requirement exists under AS 39.50. State officials are not permitted to have outside employment of that nature. Under AS 39.50, filers must report all gifts of more than \$250 except gifts from family. Legislators, legislative directors, and the legislative ethics committee members file gift disclosure under AS 24.60.

This section mandates the Commission to mix apples and oranges to provide one form to cover filing under two separate laws. The result of this mandate is likely to cause substantial confusion to the over 2000 filers under AS 39.50.

In Section 5 (page 6, line 6) the bill amends the campaign disclosure law to conform with an amendment to legislative ethics in section 7 (p. 10, line 31). Ms. Miles concluded that the effect of this amendment to the campaign disclosure law will permit legislators and legislative employees to use public resources in campaign activities to support of or oppose ballot questions concerning constitutional amendments.

Under current law, public officials are currently permitted to communicate on ballot questions when the communications are made in the usual and customary performance of the official's duties. Ms. Miles explained that this means that a legislator has the right to advocate for a ballot question, particularly one concerning a constitutional amendment. Legislators could appear before the chamber of commerce, state their position in mailings to their constituents.

Ms. Miles maintained that legislative use of public resources to conduct constitutional amendment ballot questions campaigns is likely to attract public inquiries

and complaints. Persons on the opposing side of constitutional amendment ballot questions will probably have concerns regarding this issue and may even pursue public funds for equal treatment. Ms. Miles stated that if this language [were removed] from the campaign disclosure law, but retained under the legislative ethics law, then "it is our opinion that we would all be on the same page".

Ms. Miles noted that section 6 (page 7, line 6) removes polls that are limited to issues and do not name a candidate unless the poll was designed primarily to benefit or was requested by a candidate. Campaigns pay for polls that they issue. If someone else issues a poll and provides it to the candidate in order to influence the outcome of that candidate it would be considered a contribution. This provision will permit currently prohibited entities (other than lobbyists) to provide polls to individual candidates. Administrative costs will result as the Commission will be put in the position of determining the source and the "intent" of polls when members of the public or opposing candidates make inquiries or file complaints.

Ms. Miles discussed section 7 (page 8, line 1), which provides an exemption from the definition of expenditures for "communications with a value of \$500 or less a year on any subject made by a corporation." She observed that the Commission is confused regarding current administrative regulation [AAC 50.25], which provides that a business, corporation, trade association, labor union or other organization that are not organized primarily to influence elections may communicate directly with its members, employees or their families, on any subject, if the communication is of the same format used by the organization when communicating on non-political subject. She observed that telephone trees, newsletters and email may be used. As long as the communication does not solicit contribution or any action other than voting for or against a candidate or ballot question it would not be considered to be regulated by the campaign disclosure law. The language on page 8 changes this provision. These communications would now be an expenditure and would be limited to \$500 dollars a year. She questioned if the intent is to override the regulation.

SUZI BARNETT, ADMINISTRATOR, SELECT COMMITTEE ON LEGISLATIVE ETHICS, ANCHORAGE testified via teleconference. She pointed out that language regarding the issuance of newsletters appears on page 7 and 9. There are provisions in the Ethic Code that reference campaign periods. One is a campaign period of 45 days prior to an election. The other provides a 90-day period for mass mailings from other than office accounts. She explained that the use of a specific day, such as July 15 could be problematic when there are special elections. The Ethic Code references the number of days prior to an election. Mass mailings that talk about a

candidate and use funds other than office allowances, such as leadership, council, finance funds are restricted to 90 days prior to an election.

Representative John Davies explained that he wanted to restrict the use of office accounts for newsletters prior to an election that a person running for office would be standing in without restricting the use of newsletters prior to a special election or a ballot issue. He felt that the use of a newsletter prior to special elections on issues would be appropriate as long as it is in the same format normally used to communicate with constitutions and one outcome was not advocated over another. Ms. Barnett agreed that there would not be a concern if the legislator was not a candidate in the election.

SB 103 was heard and HELD in Committee for further consideration.

#

ADJOURNMENT

The meeting was adjourned at 4:25 p.m.