

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

April 29, 2003

8:06 a.m.

**MEMBERS PRESENT**

Representative Bruce Weyhrauch, Chair  
Representative Jim Holm, Vice Chair  
Representative Nancy Dahlstrom  
Representative Bob Lynn  
Representative Paul Seaton  
Representative Ethan Berkowitz  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 157

"An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 4

Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

- HEARD AND HELD

HOUSE BILL NO. 149

"An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil penalty for failure to provide the notice; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE JOINT RESOLUTION NO. 24

Relating to the Alaska-Yukon Intergovernmental Relations Accord, to annual legislative exchanges, and to continuing intergovernmental work on matters of joint concern and mutual interest.

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 215

"An Act repealing statutes that relate to art works in public buildings and facilities and that require a set percentage of construction costs to be spent on art."

- BILL HEARING POSTPONED

**PREVIOUS ACTION**

BILL: HB 157

SHORT TITLE:ELIMINATE APOC

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0426	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0426	(H)	STA, JUD, FIN
03/05/03	0426	(H)	FN(S) FORTHCOMING
03/05/03	0426	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/05/03	0426	(H)	REFERRED TO STATE AFFAIRS
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102
03/11/03		(H)	Scheduled But Not Heard
03/12/03	0522	(H)	FN1: ZERO(GOV)
03/12/03	0522	(H)	FN2: (ADM)
03/12/03	0522	(H)	FN3: (ADM)
04/22/03		(H)	STA AT 8:00 AM CAPITOL 102
04/22/03		(H)	Heard & Held MINUTE(STA)
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102
04/24/03		(H)	Heard & Held MINUTE(STA)
04/29/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HJR 4

SHORT TITLE:CONST AM: 90 DAY LEGISLATIVE SESSION

SPONSOR(S): REPRESENTATIVE(S)SAMUELS, ROKEBERG

Jrn-Date	Jrn-Page		Action
01/21/03	0025	(H)	PREFILE RELEASED (1/10/03)
01/21/03	0025	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0025	(H)	STA, JUD, FIN
01/21/03	0025	(H)	REFERRED TO STATE AFFAIRS
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102
03/11/03		(H)	Scheduled But Not Heard
03/17/03	0566	(H)	COSPONSOR(S): CROFT
03/18/03		(H)	STA AT 8:00 AM CAPITOL 102
03/18/03		(H)	Heard & Held
03/18/03		(H)	MINUTE(STA)
03/19/03	0593	(H)	COSPONSOR(S): HOLM, ANDERSON, MEYER,
03/19/03	0593	(H)	MCGUIRE
04/24/03	1110	(H)	COSPONSOR(S): KOHRING
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102
04/24/03		(H)	Scheduled But Not Heard
04/29/03		(H)	STA AT 8:00 AM CAPITOL 102

**WITNESS REGISTER**

BROOKE MILES, Executive Director  
Alaska Public Offices Commission (APOC)  
Anchorage, Alaska  
POSITION STATEMENT: Answered questions for the committee,  
regarding the proposed committee substitute, labeled HB157.doc,  
4/24/2003, during the hearing on HB 157.

LINDA MURPHY, Clerk  
Kenai Peninsula Borough  
Soldotna, Alaska  
POSITION STATEMENT: Speaking to Sections 1 and 32 of the  
proposed committee substitute, labeled HB157.doc, 4/24/2003,  
suggested an option to the committee, during the hearing on HB  
157.

STEPHEN CONN, Special Projects Officer  
Alaska Public Interest Research Group (AkPIRG)  
Anchorage, Alaska  
POSITION STATEMENT: Offered a short-term history of the  
campaign finance law and HB 157, and asked the committee to  
"give some pause to" the limit increases proposed in the  
committee substitute.

ANDREE McLEOD  
Anchorage, Alaska

POSITION STATEMENT: Stated concern about raising the limits on contributions and removing the prohibition of lobbyists, during the hearing on HB 157.

JAN DeYOUNG, Assistant Attorney General  
Governmental Affairs Section  
Civil Division (Anchorage)  
Department of Law  
Anchorage, Alaska

POSITION STATEMENT: Answered a question regarding Section 34 of the proposed committee substitute, labeled HB157.doc, 4/24/2003, during the hearing on HB 157.

MONA LISA DREXLER, Municipal Clerk  
Fairbanks Northstar Borough  
Fairbanks, Alaska

POSITION STATEMENT: Stated two concerns regarding municipalities within a borough all having different standards, and the effective date of July 1, 2003, found in the proposed committee substitute, labeled HB157.doc, 4/24/2003, during the hearing on HB 157.

MATT DAVIDSON, Conservation Advocate  
Alaska Conservation Voters (ACV)  
Juneau, Alaska

POSITION STATEMENT: Asked the committee to consider an amendment relating to Section 30 of the proposed committee substitute, labeled HB157.doc, 4/24/2003, during the hearing on HB 157.

SARAH A. GILBERTSON, Policy & Program Coordinator  
Alaska Municipal League (AML)  
Juneau, Alaska

POSITION STATEMENT: Asked that the committee consider the impact of HB 157 on municipalities.

REPRESENTATIVE RALPH SAMUELS  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HJR 4.

SARAH NEILSON, Staff  
to Representative Ralph Samuels  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on HB 157.

**ACTION NARRATIVE**

**TAPE 03-45, SIDE A**

Number 0001

**CHAIR BRUCE WEYHRAUCH** called the House State Affairs Standing Committee meeting to order at 8:06 a.m. Representatives Holm, Seaton, Dahlstrom, Lynn, Berkowitz, and Weyhrauch were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

HB 157-ELIMINATE APOC

CHAIR WEYHRAUCH announced that the first order of business was HOUSE BILL NO. 157, "An Act eliminating the Alaska Public Offices Commission; transferring campaign, public official, and lobbying financial disclosure record-keeping duties to the division of elections; relating to reports, summaries, and documents regarding campaign, public official, and lobbying financial disclosure; providing for enforcement by the Department of Law; making conforming statutory amendments; and providing for an effective date."

Number 0155

CHAIR WEYHRAUCH reminded the committee that the motion to adopt the proposed committee substitute (CS) for HB 157, labeled HB157.doc, 4/24/2003, as a work draft was still pending from 4/24/03.

REPRESENTATIVE BERKOWITZ withdrew his objection to the motion.

CHAIR WEYHRAUCH renewed the motion. There being no objection, the proposed CS dated 4/24/2003 was before the committee.

Number 0331

REPRESENTATIVE SEATON referred to a [three-page] memorandum from Ms. Miles, dated April 21, 2003, [included in the committee packet]. He reminded the committee that at the last hearing on HB 157 he had asked a question regarding why certain \$50 contributions need to be reported, while other \$10 contributions do not. He asked Ms. Miles to confirm that [the proposed CS] would require that all individual contributions - "no matter what level, unless they're at [an] activity of over 25 people" - be [disclosed].

Number 0490

BROOKE MILES, Executive Director, Alaska Public Offices Commission (APOC), said that is correct.

REPRESENTATIVE SEATON said, "I just want to let the committee know that ... I'm going to withdraw my objection to this differential." He stated that he has no problem with the requirement to report information if there is also a requirement to collect it.

Number 0566

REPRESENTATIVE BERKOWITZ said he recalls that [campaigners] are required to keep that information currently. He explained, "We have to list in the aggregate if somebody goes over an amount, which means we need to ... keep records of small contributions." He offered an example. He asked if [the proposed CS] says [campaigners] would not have to keep track of small donors [at] large events.

MS. MILES answered that's correct. She pointed to Section 9, on page 6, of the proposed CS and said it was drafted from a current regulation that's been part of the campaign disclosure law since its inception in 1974. That law, she continued, permitted "this kind of head counting and aggregate reporting for your high-volume/low-cost events."

MS. MILES said that after a prior meeting she had an opportunity to speak with the attorneys at the Department of Law who told her that even though [the proposed CS] says "spaghetti feed", the use of the word "includes" doesn't limit it to a spaghetti feed.

REPRESENTATIVE BERKOWITZ stated that, currently, [campaigners] have to keep track of everyone who makes a contribution, but don't have to report [those contributions] unless the amount exceeds \$100. He said, "What you're saying, or what this proposal here would be, [is] that we don't keep track of people if they show up at a big party."

MS. MILES responded that that's correct; however, she added, "Under current law you could use the guideline, as well, because this regulation is on the books that permits a head counting and aggregate disclosure for those events."

Number 0776

REPRESENTATIVE BERKOWITZ specified that it's in the aggregate; it's not based on the individual. He continued as follows:

So, say for example you have a candidate who has a campaign that [is] chock-full of ... large events, [but] small [donations]. You have individuals who make contributions under the limit at these ... events. In the aggregate, that individual could wind up giving hundreds and hundreds of dollars to a campaign, under this proposal - and not be reported.

MS. MILES responded that she supposes that is an eventuality; however, current practice hasn't really proven that [to be] true. Usually, she said, candidates are aware of whom their main contributors are. She said, "If they show up at one of these events, they do their best to track them separately."

REPRESENTATIVE BERKOWITZ asked if [the proposed CS] was created in response to a particular problem. He noted that none of the campaigns that he's aware of have had any problem keeping track of the individuals who make large contributions.

MS. MILES replied, "This proposal was included when it was determined that we would be requiring full disclosure, and we didn't want to put an additional burden on reporters for the high-volume/low-cost fundraising events."

REPRESENTATIVE BERKOWITZ stated that that burden currently exists, so there's no additional burden. He continued:

The only additional burden that would result from this proposal would be that you'd have to list small donors. And since campaigns are currently required to keep track of those small donors, it's not a major effort to include them. And that objective of transparency for small donors is a worthwhile policy goal; but to get rid of the requirement that we keep track of people who show up to large parties seems an incentive to have a lot of large parties and not keep track of the contributors there. It ... creates a loophole.

Number 0915

MS. MILES said it's a loophole that's already in existing law. She stated that she doesn't think that APOC "looked at it that way when [it] endorsed this concept." She added that APOC certainly wouldn't endorse a large volume of anonymous contributions, because it wouldn't be in the public's best interest. She said it's true that some campaigns have a series of large volume/low cost fundraising events; however, it is not the norm.

REPRESENTATIVE BERKOWITZ illustrated one of the problems with [the proposal] as follows:

You can take cash in small amounts, as long as you know who's giving you the cash. There's nothing ... at one of these large events - you have the bowl that's sitting out in front - ... that will prevent somebody from dumping a large amount of cash in that bowl .... The campaign could extrapolate that that cash didn't come from an individual, it came from all the people there. That's why I'm concerned about retreating from the requirement that you keep track of every contribution made, ... regardless of the forum.

MS. MILES stated that that is an important point. She said that is also why the APOC staff pales every time candidates talk about "the bowl concept," because it's a frightening [scenario].

Number 1036

CHAIR WEYHRAUCH remarked that he personally received "cash in a bowl" [during his campaign] and had to send it in to APOC.

MS. MILES responded, "By law it has to escheat to the state, so you don't want anonymous cash."

Number 1059

REPRESENTATIVE HOLM, on a philosophical note, asked, "If APOC is there for the purpose of determining who is influencing us - who's influencing people - if it's an anonymous piece of cash, what's the point?" He clarified that [candidates] can't be influenced if they don't know who the contributors are.

Number 1103

MS. MILES responded that, foundationally, APOC is responsible for providing information to the public. The theory is that the public has a right to know who is financing the campaigns.

REPRESENTATIVE HOLM stated that just to escheat money to APOC is "not solving the problem." He asked if the problem is one of whether or not it is determined who's influencing the legislature or policy makers of the state, which is what APOC is all about, why would anyone care if the money is not traceable? He continued as follows:

Say I have a party of 200 people there and I don't know who everybody is even. If somebody dropped a hundred dollar bill in there [and] we don't know where it comes from, having to escheat it back to APOC is good for APOC, but it doesn't solve the public's ability to know who's influencing people, because there's no influence being had.

I mean, the assumption is that we're doing something inappropriate, or ... [that] the public's doing something inappropriate, and I find that to be somewhat of an affront. Because we aren't doing something inappropriate if ... somebody drops a hundred dollar bill in your pot just because they like you. It doesn't mean they're trying to influence you - they're just trying to get you elected. So, why do we go down this road that says everybody's a crook, if we don't know how to give the money back to the state? You're painting us with a bad brush, as if we are intending to take money inappropriately.

Number 1235

CHAIR WEYHRAUCH told Ms. Miles that the committee appreciates that she is sitting before them, and he acknowledged that it was the legislature who passed the law in the first place.

MS. MILES noted that when anonymous funds are escheated to the state, they go to the general fund, not to APOC's budget.

Number 1270

REPRESENTATIVE SEATON reiterated that he had withdrawn his objection.

Number 1370

REPRESENTATIVE GRUENBERG asked what the difference is between Section 9 and existing law.

MS. MILES answered that if there are any differences, they might be minor wording changes that "were updated when this was redrafted."

REPRESENTATIVE GRUENBERG asked, "So, this is taking a regulation and putting it in a statute?"

MS. MILES answered that that's correct.

REPRESENTATIVE GRUENBERG, responding to Representative Holm's previous comments, as he understood them, stated that he thinks there are several purposes for APOC and for "this law." One purpose, he noted, is to publicize who gives what to whom. Another, he said, is to prevent influence. He stated that it used to be in some legislatures that legislators would have a box in the corner of their office where people would leave money in the box. He said the only two people who knew [when a contribution to the box was made] were the donor and the donee. "That's enough," he said. Preventing that sort of thing, he opined, is in itself a valid purpose, "even if you don't necessarily publicize something." Preventing that sort of occurrence, or requiring that money to be given back, he said, is a valid goal of APOC.

Number 1505

REPRESENTATIVE BERKOWITZ said another important thing that has not yet been mentioned is that not all contributions are [made] in support of the donee. He continued as follows:

People don't always give me money because they like what I say. Sometimes they give me money because they don't like what the other guy is saying. ... So, ... we're protecting not just the integrity of the candidate and donor, but [also] the integrity of the process. We want to make sure ... the public knows who's playing. Because you can corrupt the process without corrupting the contributor or the candidate.

REPRESENTATIVE BERKOWITZ said that he didn't realize that "this was by regulation." He noted that most of his [fundraising] events [involve] 25 people or more and [receive] small [donations] and [his campaign committee] scrupulously keeps

track of everyone who comes through the door, whether it's a \$10, \$20, or \$500 contribution. He posited that it's not a burden for a campaign, but is part of being responsible. He said, "I'm sorry that this is currently in regulation - it shouldn't be. We should require that the campaign keeps track of everybody who makes a contribution." He added that it would be a different step at this point to consider whether or not to require disclosure of individuals who make contributions in the aggregate of less than \$100 - which is currently the rule.

REPRESENTATIVE BERKOWITZ said it seems that there are two sets of questions. He explained that if this regulation is enshrined in statute, the door is opened for a series of small contributions, in which case donors don't have to be disclosed. He said, "I get a lot of contributions from people who give me \$99 or \$100 total." He said he keeps track of their names. He stated that [those contributors] might be in sensitive positions or might not want to offend "somebody on the other side," but yet they wish to be supportive. He said the committee could have a policy debate about whether those individuals should be disclosed or not; however, he said he thinks that to say [the legislature] is not going to require disclosure of people who make contributions of \$50 at any event where there's more than 25 people would be opening the door to a lot of cash funneling into campaigns.

Number 1605

REPRESENTATIVE BERKOWITZ remarked that, as far as he knows, everyone on the committee runs honorable campaigns; however, not everyone who gets involved in the political process has similar standards of conduct. He said [the legislature] must make rules for those who are not honorable and rule abiding. He reiterated that he has a lot of concerns about lifting the requirement that "we keep track of everybody who walks in the door."

Number 1694

CHAIR WEYHRAUCH told Representative Berkowitz that there is a clear tension between opening doors to abuse and closing the doors to people who want to do good work for the government and run for office, and also to the person who simply wants to give a plate of cookies to somebody at a bake sale because he/she believes in that person. He revealed that he has had men, women, and children give "small things." He stated, "If you have to report everything, you're going to drive that donor out of the process, and you're going to drive [out] political

candidates who have to give up their time, money, [and] effort ...." He opined that it is not good public policy to chase people out of the political process simply because they're burdened by a huge number of reporting requirements. He said he thinks what Representative Berkowitz is talking about is clearly a concern; however, he said he is worried about closing the process to people to whom it otherwise would be open. He said that [the legislature] must find that difficult balance.

REPRESENTATIVE BERKOWITZ said that the current \$100 limit seems to be part of that balance. Someone can give a plate of cookies or make a small contribution without being disclosed. He said there is "a tension with being transparent." He stated that there is a potential to abuse the law by making a series of smaller contributions that would not have to be reported, but could add up to \$500, for example. He added that there would be no way of tracking that.

Number 1800

REPRESENTATIVE HOLM stated his appreciation for the comments made by Representatives Berkowitz and Seaton. However, he noted that all of the donations that he received went to the media, not to him; therefore, he said he did not "get enriched by any of this money." He said that since he did not "make any of the money himself," he is somewhat offended by the idea that people think that he somehow being manipulated because somebody might give him \$100. He remarked that \$100 doesn't go very far in a grocery store. He stated that he thinks people donate to politicians because they respect many aspects about that politician and he appreciates the contributions that he has received. He said, "We risk getting too carried away here." He echoed Chair Weyhrauch's previous comments regarding the average person possibly not wanting to "go through this."

REPRESENTATIVE HOLM addressed Ms. Miles as follows:

I don't think I'm the sharpest knife in the drawer, but I'm not the dumbest one either, and I don't find the reporting process very easy to do. Now, ... if it's complicated for me, I suggest to you that we need to make the process more simple for folks, rather than making it more complicated.

REPRESENTATIVE HOLM referred to Section 9. He mentioned a committee discussion held during a prior meeting. He offered his understanding that it is a point of law that "if you state

the specific, you exclude the general." He asked if that is true.

REPRESENTATIVE GRUENBERG reminded Representative Holm that, as was discussed in the House Judiciary Standing Committee previously, there is a statute that says that the word "includes" means "including, but not limited to."

REPRESENTATIVE HOLM said, "We're okay then." He stated that he is not certain that he likes the increase of the limits. He suggested he would talk about that when the discussion of amendments begins.

Number 1976

REPRESENTATIVE DAHLSTROM asked Ms. Miles how the [proposed increases in] individual contribution amounts were determined.

MS. MILES responded that, for the most part, APOC looked at it in terms of doubling the current [limit] and, in some cases, the amount was arrived at through debate and compromise.

Number 2021

REPRESENTATIVE SEATON asked if there was a problem with the \$100 limit and why the \$100 aggregate in a year is being dropped "to zero, or to one penny."

MS. MILES answered that there was no problem with the current reporting practice of the \$100-and-less contributors being aggregated and counted for. She continued as follows:

However, this was just considered a foundational step, because as you are aware, a candidate's required to keep that information in her or his own campaign. And the idea being that everyone would be, at some point, doing this electronically, it just seemed that, "Go ahead and make it public." And of course that is a major policy decision. That's why you're all here.

Number 2146

REPRESENTATIVE BERKOWITZ turned to the question of events. He noted that there are a lot of events that don't require people to be present. For example, a group of people gathered in a phone room making phone calls might be considered a fundraiser, he said. An event could also mean a group of people putting

contribution envelopes together and mailing them out. He said he has a concern about the definition of events.

REPRESENTATIVE BERKOWITZ echoed Representative Dahlstrom's question regarding why the amounts [of limits] are being increased. He asked if anyone has shown that there has been an inadequate flow of funds to political campaigns over the last couple of years, or if special campaigns, in particular, are somehow experiencing problems.

MS. MILES answered that no one came to APOC and said that the problem with the law is that \$500 is not enough money; however, APOC, in considering what isn't working, why people are so frustrated, and why the system seems so complex, thought that that might be an issue that no one brought forward, "because it just seemed uncomfortable." She explained that the issue was considered in terms of inflation, and how much [a campaign] might cost in 2010, for example.

Number 2248

REPRESENTATIVE GRUENBERG turned to Section 1. He said it seems to him that this section involves two different issues. One issue, he noted, is whether a community can opt out. The second, which he noted is "quite a different issue," is whether municipal participation should [have] a fee attached. He asked Ms. Miles, "Why did you mix the two up? Why didn't you separate the two out? And would ... the commission have an objection if we were to charge municipalities a fee, but still require them to participate?"

MS. MILES answered no; in fact the commission would not have a problem with that. She stated her belief that that is what was intended in Section 1. She said that statute used to read that municipalities were subject to the law, unless they exempted themselves, if - she added - they're population was greater than 1,000. She noted that there are 31 municipalities in Alaska that are subject to the law. In response to a comment by Representative Gruenberg, she confirmed, "This changes that and requires that they opt in and agree to pay a fee to the state."

CHAIR WEYHRAUCH asked if this is one of those unfunded mandates that [the legislature] is going to hear about.

MS. MILES answered that that's possible, but added that it was a service that the state provided without cost to municipalities in the past.

Number 2394

REPRESENTATIVE GRUENBERG asked Ms. Miles if she knows how much it would cost any of the municipalities.

MS. MILES said she doesn't know, although APOC has tried to look at the numbers [in] a different way, because of the manner in which the commission has administered these laws [with] municipalities and state mixed together. She noted that the only municipality that stands separately is the Municipality of Anchorage, because it holds a spring election. Most other municipalities hold an October election. She said it's been difficult for APOC to delineate "per cost." Certainly, in a municipal campaign, where the complaints are filed in a series regarding candidate activity or ballot group activity, the costs are higher, she noted. Other than that, she said, there might be up to 20 candidates running for six seats, filing four reports, for example. The larger communities often - but not always - have larger, more expensive campaigns.

Number 2459

REPRESENTATIVE GRUENBERG suggested adjusting the user fees for those who choose to run for office and making the candidates pay for some of the costs.

MS. MILES replied that that is an issue that has been discussed; however, she said it seems problematic to be assessing a fee on candidates to make public the financial activities of their campaigns for the public's scrutiny. She noted that APOC does "have a user fee on lobbyists."

Number 2537

CHAIR WEYHRAUCH, regarding the issue of municipalities opting in, asked Ms. Miles to confirm that the statute in the proposed CS would only provide to municipalities that opt in to the process.

MS. MILES answered that is correct. In response to a follow-up question by Chair Weyhrauch, she confirmed that there is no requirement that a municipality use APOC or the state's system to regulate its election whatsoever; however, as indicated in the amended language in Section 1, if a municipality does opt in, then the commission will charge it a fee to cover the costs.

CHAIR WEYHRAUCH remarked that this is only a fee and doesn't aim to recoup the cost of the election to APOC. If [the committee] wants to ensure that the state has the fiscal resources to operate its government, he suggested, it should require that the municipalities pay the full fee to the state. Then, he said, a municipality could make its own determination whether its budget would allow it to run an election more efficiently, and whether it wants to expend its local resources for its own local election, or whether it makes sense to use the state to manage its elections. He asked Ms. Miles if that is correct.

MS. MILES responded, "That states the philosophy perfectly."

CHAIR WEYHRAUCH concluded that, if the committee wants to, it [could] "adjust this language to the full and true value of the election."

MS. MILES confirmed that that would be good.

Number 2627

REPRESENTATIVE LYNN stated that he has serious problems with the proposed doubling of most of the contribution limits in the bill. He said that as issues have come forward, he has learned to consider who will benefit and who will lose. Doubling the donations [allowed] would benefit the incumbent, who already has the advantage, as well as the "high rollers" and the "big names." He stated that it seems like it would hurt "the little guy" who is, perhaps, getting into politics for the first time. He said, "To a little guy getting into a campaign, a fifty-buck contribution is pretty similar to a hundred-buck [or] two hundred and fifty-buck contribution to the big name candidate." He stated that this kind of thing concerns him. He indicated that the idea is to have a level playing field. He added that, currently, "we don't have a level playing field, for the reasons I've stated."

REPRESENTATIVE LYNN turned to an idea which he said he had expressed "previously," regarding instant access and using the Internet for "disclosure purposes," which he opined would save [APOC] time and money.

Number 2770

REPRESENTATIVE BERKOWITZ underscored Representative Lynn's comments by stating that he was amazed at how many unsolicited contributions he received after he had been in office, and how

many more he received after becoming the minority leader. He remarked that it is a huge disincentive for the new challenger who might have a good idea, but has to run against the incumbent. Increasing the amount of money [that can be given to a campaign] can stifle political challenge and debate, because it's so easy for known entities to receive contributions. He said it's nice to be on a committee of freshman legislators who remember how difficult it is to go out and scrape for every \$50 contribution.

Number 2820

REPRESENTATIVE BERKOWITZ turned to Section 1. He noted that there would be cost for the election that each municipality would have to bear. He continued as follows:

It's not as if municipalities that were currently in could stay in. ... Municipalities would have to affirmatively opt for APOC. And there's a cost to those elections. In a time where the state is rescinding funding to the municipalities, that's a cost that local taxpayers - either in the form of sales tax or property taxes are going to have to bear. And I think we ought to be aware of it.

The other consequence is: Many municipalities might choose to opt out, for fiscal reasons [or] for policy reasons. And what we do then is we set up a patchwork quilt of different standards across the state for campaign contributions. And there's a reason why you want to have statewide universal standards for campaign contributions. You want everyone to know the rules all the time. I don't want to be in the position where if you're running in Eagle River it's different than if you're running in Fairbanks ... [for example]. We need to know what the rules are across the state. Local control is very important, but statewide standards are critical when you talk about having a known set -- it's the rule of law. And this goes to what the rule of law is. I just hate to think of Alaska dividing itself into a set of little fiefdoms, where each municipality and each borough sets up its own standards of contributions.

Number 2940

REPRESENTATIVE GRUENBERG turned to Section 30 of the proposed CS, on page 20, [beginning on line 16]. He stated that it is a terrific burden.

MS. MILES, in response to a question by Representative Gruenberg, pointed to the language on page 20, beginning at line 24, which read as follows:

(2) the identity, by name and address, of each business in which the person, the person's spouse or spousal equivalent, or the person's child has an interest or was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year, except that an interest of less than \$10,000 in the stock of a publicly traded corporation need not be included;

**TAPE 03-45, SIDE B**

Number 0001

MS. MILES noted that the commission's proposed change to this language is that if the stock was a publicly traded stock and less than \$10,000, a person wouldn't be required to include that on the "exhaustive list."

Number 2951

REPRESENTATIVE GRUENBERG stated that he doesn't know if \$10,000 is too high, but he said he is in favor of some kind of a limit, "otherwise, particularly if you have a mutual fund that has dozens of stocks, it is an impossible burden and very expensive."

Number 2935

REPRESENTATIVE LYNN noted that mutual funds change stocks "by the moment."

Number 2930

REPRESENTATIVE DAHLSTROM asked if "child" referred to a child younger than 21, or a dependent.

MS. MILES said there is currently in statute a definition of child which states that it is the dependent child of the filer, or a nondependent child who lives with the filer.

REPRESENTATIVE DAHLSTROM asked, for example, if she would have to list her married child who may live with her for 6 weeks while doing an internship in the summer.

MS. MILES stated her understanding is no, the rule would only apply to a nondependent child living with the filer for the calendar year.

Number 2875

REPRESENTATIVE BERKOWITZ noted that the \$1,000 requirement remains [the same] on page 20, [beginning on] line 8, [in paragraph (3)], which reads as follows:

(3) as to each loan or loan guarantee over \$1,000 from a source with a substantial interest in legislative, administrative, or political action, the name and address of the person making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists.

REPRESENTATIVE BERKOWITZ noted that on page 21, "that \$1,000 is a different \$1,000, but it's a loan, or loan guarantee increased to \$10,000." He asked Ms. Miles to explain the discrepancy.

MS. MILES replied that the reason that the commission felt it shouldn't make the change under the legislative financial disclosure [beginning] on page 20, line 8, was because that was something that arose from recommendations from the legislative ethics committee and not from the commission. She added, "Although they did feel that the sources of income, as you can see in [paragraph] (2), at line 1, ... should be increased."

Number 2795

LINDA MURPHY, Clerk, Kenai Peninsula Borough, announced that she would be speaking to Sections 1 and 32 of the proposed CS. She stated that she is concerned about the potential costs to municipalities, particularly if there will be a requirement that all municipalities who currently fall under the "add to" pay a fee to the state, based on the full and true value of the service provided by APOC. As an option, she asked the committee to consider allowing municipalities to develop substantially similar programs that they would administer in-house, rather than paying a fee to APOC to administer those programs.

Number 2747

MS. MILES, in response to questions posed by Chair Weyhrauch, confirmed that there is nothing that would prevent a municipality from doing that, and that there is nothing that requires a municipality to be subjected to this bill, unless it opts in.

MS. MURPHY clarified that her concern resulted from hearing a committee member previously state that he would like to take the "opt out" provision out of the bill and require that all municipalities file with APOC.

Number 2710

STEPHEN CONN, Special Projects Officer, Alaska Public Interest Research Group (AkPIRG), told the committee that he is testifying on behalf of (AkPIRG), in place of Steven Cleary and Barbara Williams. He noted that Ms. Williams had submitted her written testimony. He indicated that he is representing, in this instance, "AkPIRG lobby," which he specified is a 501(c)(4) entity. He told the committee that he would like to put the bill in short-term historical context.

MR. CONN stated that the campaign finance law was passed by the legislature under some duress, after an initiative had been accepted for the ballot, and polls showed that 80 percent of the public was in favor of that initiative. He opined that the substantial changes now occurring to the campaign finance law "go to the heart of an initiative that was wildly popular on a bipartisan basis." He said he is especially concerned about the [potential] ability of the lobbyists not only to guide funds, but also to give funds to candidates outside of their district.

MR. CONN, turning to more recent history, noted that [HB 157] first emerged as a proposal to eliminate APOC entirely and "to lodge the records with the Department of Law." From an academic standpoint, he said, it was a "frontal attack ... on a bureaucracy." He stated that although he has the greatest respect for the members of APOC at this point, it doesn't surprise him that they have made proposals to raise the campaign fee limits. He noted that this was done under some duress, because for [APOC], it was a matter of survival. Notwithstanding that, he opined that there is really no explanation for the drastic increases in the fees. He added, "I mean, the price of a haircut has not gone up tenfold."

MR. CONN stated that, from the preceding two standpoints, this bill will not sit well with the public. He added that he is not sure whether it will lead to another initiative or a deepening cynicism in politics. He noted that several former Alaskans run the Center for Responsive Politics, at the federal level, and [that entity] has pointed out that incumbents do attract the big money, and uncontested elections bound throughout the U.S. He stated that he doesn't think that what "we" want and what [the committee] wants is to see a stultified process peopled only by professional politicians rather than newcomers. He stated, "It's not the Alaskan way and it's not your way; it's not how most of you got there."

Number 2507

MR. CONN stated that his own experience [has shown that] the more byzantine world of politics and lobbyists exists at the municipal and borough level, not at the state level. He added, "That is truly a complex world that I've never been able to fathom." He mentioned municipalities operating under severe economic duress, especially with a proposal that is "said to be forthcoming" related to sales tax. He noted that many municipalities already survive on sales tax. He said, "To encourage them to opt out and to make further mysterious their process to their local voters does Alaska and does the principle of local control little or no good."

MR. CONN said he hopes the committee will "give some pause to these amazing increases in the limits," because they would drive the political process into a much bigger money political process than the one that the voters were prepared to revolt against when they were prepared to except the campaign finance initiative.

Number 2440

ANDREE McLEOD told the committee that she was a recent candidate for state office for District 24 and has worked on several campaigns. She prefaced her testimony by stating an assumption that lobbyists are involved in campaigns, "whether they're prohibited or not."

MS. McLEOD stated that she is concerned about raising the limits on contributions and removing the prohibition of lobbyists. She said it would enable certain individuals to amass power and influence. She said she appreciates the time the committee is

taking to hear public testimony. She quoted an Indian philosopher from the 3rd century.

Number 2352

MS. McLEOD referred to Chair Weyhrauch's previous remark regarding his intent to increase the number of people who run for public office. She opined that HB 157 would discourage people from running for office. Raising the contribution limits, she noted, will impact what in economics is referred to as the limit prices, and it will increase the barriers to entry, which results in less competition. She indicated that the power taken away from the people will be given to the rich and the "special moneyed interests."

MS. McLEOD referred to "strategic generosity," which she defined as the ability to be flexible with wealth, to put it to work, and to "win people's hearts." She noted that Louis XIV used strategic generosity in his court, and she said she believes lobbyists are doing the same thing today. She stated that it has always been a great weapon in building a support base by using money to "create more money with influence."

Number 2256

MS. McLEOD posited that the obvious result of HB 157 is corruption and discrimination against those who are not able to pay, which will not only undermine the democratic process, but will undermine democracy itself. She added that it would widen an already existing chasm between "us" and "them." In regard to Mr. Conn's previous comment regarding whether this [legislation] would bring cynicism, she opined that it would, because [the committee] would not ensure the trust, respect, or confidence of the people by passing [HB 157].

Number 2222

REPRESENTATIVE GRUENBERG referred to a letter, from Mike Frank and David Finkelstein [of] Campaign Finance Reform Now!, dated April 23, [2003] [included in the committee packet]. He said the letter addressed Section 1 of an earlier work draft, dated [4/18/2003], which [proposed] "deleting the authority of municipalities to enact stricter campaign finance limitations." He asked Ms. Miles if that "prohibition" has been deleted.

Number 2175

MS. MILES replied as follows:

In the earlier draft, it simply removed municipalities from the oversight of the commission entirely. There was no "opt in" or "opt out." And it did remove language under current law, which permits ... municipalities ... to, by ordinance, establish stricter campaign disclosure provisions for their municipality.

And so, it really wouldn't have removed that possibility; it just took it away from APOC's oversight.

REPRESENTATIVE GRUENBERG turned to Section 34. He asked Ms. Miles to explain what is being repealed in this section.

MS. MILES offered her understanding that AS 15.13.072(d) and AS 15.13.072(g), [two of the three statutes that would be repealed by Section 34], deal with legislative session "time-outs" that were not upheld by the Alaska Supreme Court in the ACLU case [State v. Alaska Civil Liberties Union, 978 P.2d 597 (Alaska 1999) cert. Denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000)]. She said, "Those are actually housekeeping measures. The supreme court decision removed it from one section of law and not the other two, leaving it very confusing for the reader; however, APOC does not enforce them, upon formal advice from the attorney general's office." She noted that AS 39.50.200(a)(G), [the third statute that would be repealed by Section 34], is a definition in the financial disclosure law that includes municipal officials "in public officials." In response to a question by Representative Gruenberg, she said that she needs to double check to see if that statute should still be in [Section 34], "because that was when municipalities were being exempted, rather than having the opportunity to opt in."

Number 2035

JAN DeYOUNG, Assistant Attorney General, Civil Division (Anchorage), Department of Law, offered a point of clarification as follows:

That reference is to the Alaska Tourism Marketing Council's executive director. [It] would make that position covered in the public official financial disclosure law. But that group is no longer ... a public agency; that agency was repealed and that

function, as I understand it, has been contracted out.  
So, that's a housekeeping measure.

Number 2005

REPRESENTATIVE BERKOWITZ clarified that the aforementioned legislative "time-outs" are a ban on legislators' soliciting funds during the legislative session. He asked if there is anything that would prohibit [the legislature] from "making that part of our uniform rules."

MS. MILES replied that what [would be] removed from the law is a ban on all candidates who are not seated legislators.

REPRESENTATIVE BERKOWITZ clarified that his point is that the legislature can enforce stricter rules upon itself than might be permissible "if we threw the net more broadly." He added, "And we could lead by example by saying, 'No, it is inappropriate for legislators to seek funds during a legislative session.'"

MS. MILES responded that the legislature already does so with its Legislative Ethics Act, which includes a prohibition on legislators accepting any contributions during the time that the legislature is in regular or special session.

REPRESENTATIVE BERKOWITZ explained that he had wanted to make certain that that was going to remain the case.

Number 1955

REPRESENTATIVE GRUENBERG offered his understanding that the supreme court [ruled] that non-legislators cannot be banned from raising money during the session.

MS. MILES answered, "Correct."

MONA LISA DREXLER, Municipal Clerk, Fairbanks North Star Borough, told the committee that she would address both Section 1 and the effective date of the bill. She stated one concern she has regarding the bill as it currently stands is "the opportunity for a borough, and municipalities within a borough, to all have a set of different standards." She illustrated that, in her community, the Fairbanks Northstar Borough could have one set of standards, while the City of Fairbanks and the City of North Pole could have two separate standards.

MS. DREXLER also stated her concern regarding the effective date of July 1, 2003. She mentioned that there is a meeting in August to put forward [an ordinance] on an October ballot. She remarked that [the proposed effective date] would limit the time to get a petition signed in order to place an issue on the ballot.

MS. DREXLER requested "a copy of Ms. Miles' memo to the committee, clarifying some of the areas of the act." She stated it is her intent to continue looking at [the legislation] and to submit written comments to the committee. In response to a question by Representative Holm, she clarified that her concern was in regard to the "opt in" and "opt out" part of the proposed legislation. She said:

If a municipality wants to opt in, it must go to the voters for them to approve ... doing the disclosure. So, my concern is that July 1, 2003, if the municipality does not do an ordinance to place before the voters -- and quite frankly, the way I read this bill is, is that [as] of July 1, 2003, we're out. And until the voters approve opting in, in my municipal election, the City of Fairbanks, City of North Pole, and other municipal elections in the state - in October - will be operating without a disclosure law.

Number 1821

REPRESENTATIVE SEATON asked Ms. Miles if Ms. Drexler's interpretation was correct.

MS. MILES said yes. She noted that [APOC] held a teleconference meeting yesterday, at which time this issue was discussed. She said, "Should the legislature determine ... [to have] municipalities opt in, or in some way pay for the service, then we will need to be careful with that effective date, because ... [the] October elections are upcoming." She informed the committee that the commission is proceeding on its normal course, preparing four municipal elections, sending out letters to clerks regarding what offices are up for election, and preparing the report forms and manuals for the 31 communities it serves. She concluded, "But that is a problem area and was not intentional."

MS. MILES, in response to a request voiced by both Representative Seaton and Chair Weyhrauch, agreed to propose a solution to this issue before the next committee meeting.

Number 1697

REPRESENTATIVE GRUENBERG asked if going back to the "opt out" language, saying that if the community does not opt out it would pay a fee, and having a delayed effective date for that probation of, for example, January 1, 2005, would give everybody enough time to do the job.

MS. MILES answered that she certainly believes that would give everybody time to "deal with the question before them."

Number 1590

MATT DAVIDSON, Conservation Advocate, Alaska Conservation Voters (ACV), told the committee members that he thinks their discussion has been outstanding, in terms of the issue of increasing campaign donation limits "across the board." He opined that some of those [proposed] standards are absurdly high, and would have the effect of squelching participation by the public in campaigns.

MR. DAVIDSON expressed concern that there has not been discussion by the committee regarding [Section 30], which relates to disclosure of interests in businesses. He stated that if legislators are working for a number of businesses during their non-legislative time, they should be required to disclose that relationship. He recommended that the committee consider an amendment, because the public has the right to know that these relationships exist [and legislators may be supporting legislation related to their company]. He noted that he would be submitting written testimony, as well.

REPRESENTATIVE GRUENBERG asked [Mr. Davidson] if he would prepare an amendment He indicated that he [may possibly offer it].

MR. DAVIDSON said he would be happy to.

Number 1425

SARAH GILBERTSON, Policy & Program Coordinator, Alaska Municipal League (AML), asked that the committee consider the impact of HB 157 on municipalities. She stated that municipalities are currently in trouble, as is the state. She cited reasons, including cuts in revenue sharing and grants, for example. This [legislation] would mean yet another cut and unfunded mandate.

She reminded the committee that the municipalities and the state are linked; therefore, if a cut is made, sales and property taxes go up at the local level and, ultimately, the committee members' constituents are affected.

Number 1371

MS. GILBERTSON stated that information regarding HB 157 has been difficult to come by. She requested a copy of [Ms. Miles'] memo received by the committee, so that she could make it available to the members of AML. She said she thinks it would also be beneficial to know the amount of cost currently incurred by APOC in administering to municipalities, in order to determine if "this amount of work is a burden, both in time and personnel to APOC." She added, "Or whether this language is just a revenue generator for the state." She encouraged making an educated decision along those lines.

Number 1313

MS. GILBERTSON turned to the subject of fees, and she stated that it is not clear to her what those fees will be, or whether they will be graduated based upon the population in a community, for example. She said that it is also unclear where those funds will go. She asked if they would go to the general fund, or strictly towards providing services that the municipalities will receive if they opt in.

Number 1253

REPRESENTATIVE BERKOWITZ asked Ms. Gilbertson if AML would prefer that Section 1 be deleted from the bill.

MS. GILBERTSON answered that AML has not yet come out with a position on HB 157, because it has to go through a process whereby its members would either vote to support or oppose a bill. However, she noted that preliminary discussions with the members of AML have shown they are concerned that "this would be another unfunded mandate."

Number 1220

REPRESENTATIVE HOLM said that in many places around the state clerks work for the administration of either the assembly, or of the mayor's office, for example. He asked if there is any concern about an "arms-length relationship between those who are going to be the bosses thereof of those who are going to be

keeping control of the financing, and the possibilities of improprieties."

MS. GILBERTSON deferred to Ms. Drexler.

Number 1165

MS. DREXLER, for purposes of clarification, asked "Is the question, 'Would I have a concern - because of working for the assembly - of monitoring that who might be my boss?'"

REPRESENTATIVE HOLM responded yes.

MS. DREXLER said she does not [have that concern]. In the Fairbanks North Star Borough, she explained, she reviews all ethics complaints. She stated that she does not have a concern on this issue, as related to contributions and financial disclosure.

Number 1088

REPRESENTATIVE SEATON referred to Ms. Gilbertson's previous mention of unfunded mandates, and he stated that he can see where the municipalities want to know the fee structure before they opt in. He pointed out that no municipality would be required to [opt in] unless it looks at the fee schedule and determines that it's appropriate. Therefore, he asked if he missed something regarding [Ms. Gilbertson's concern over] the unfunded mandate.

MS. GILBERTSON said she isn't sure and would have to look into that. She revealed that she had heard from some of AML's members that there would be some requirements that "they would still have to administer, whether they're reporting or filing requirements," and if they would still have to file, report, or process those requirements, whether through APOC or not, than that would be "another unfunded mandate." She told Representative Seaton that she would double-check on that for him.

Number 1008

REPRESENTATIVE BERKOWITZ stated that he would be curious to know what the level of support is for some of the other options that exist. For example, to fly without any APOC cover in municipal elections, or for the municipalities to create their own "local

APOC." He told Ms. Gilbertson that it would be helpful if she would [counsel] AML's membership regarding those options.

Number 0981

REPRESENTATIVE GRUENBERG offered his understanding that the definition of an unfunded mandate is an unfunded requirement. He stated that this is not an unfunded mandate, because there is no requirement.

MS. GILBERTSON said that she would double-check on that. She noted that yesterday, in some preliminary discussions, some of AML's members [expressed] concern that there may be, under current law, some filings or "reportings" that they would still have to process.

REPRESENTATIVE GRUENBERG compared this issue to a fishing license. He said, "If you choose to do it, then you have to pay the cost."

Number 0916

REPRESENTATIVE BERKOWITZ, regarding the example of the fishing license, stated that the distinction is that everyone has to have an election. In essence, he said, someone at some point is going to have to bear the cost of ensuring an "APOC-like creation," or "the cost of what happens when you don't have one."

Number 0850

CHAIR WEYHRAUCH noted that Ms. Gilbertson had raised an issue related to municipal actions. He stated that, as it sits now, he supports the "opt in" as opposed to the "opt out" part. Notwithstanding that, he said that it is probably worthwhile to at least have some information regarding the costs that APOC currently incurs. He asked Ms. Miles if she would provide that information to the committee.

MS. MILES agreed to do so.

REPRESENTATIVE BERKOWITZ added, "As well as the 31 communities that currently ... are participating."

MS. MILES acquiesced.

Number 0799

CHAIR WEYHRAUCH announced that public testimony is closed and that HB 157 was heard and held.

HJR 4-CONST AM: 90 DAY LEGISLATIVE SESSION

Number 0726

CHAIR WEYHRAUCH announced that the next order of business was HOUSE JOINT RESOLUTION NO. 4, Proposing an amendment to the Constitution of the State of Alaska relating to the duration of a regular session.

Number 0703

REPRESENTATIVE HOLM moved to adopt the proposed committee substitute (CS) for HJR 4, Version 23-LS0178\D, Cook, 3/28/03, as a work draft.

Number 0676

REPRESENTATIVE GRUENBERG objected for purposes of discussion.

CHAIR WEYHRAUCH invited visiting students to come sit in the committee room. He asked Representative Samuels to give a summary of HJR 4 for their benefit.

Number 0600

REPRESENTATIVE RALPH SAMUELS, Alaska State Legislature, sponsor, explained that HJR 4 would shorten the legislative session from 120 to 90 days in length. He noted that an argument against the resolution says it would give more power to the executive branch. He also noted that an argument supporting the resolution is that it would save [the state] money and make [the legislature] work more efficiently. In response to the comments of Chair Weyhrauch, he confirmed that this type of resolution has been introduced before and that the legislature, at one time, was unlimited in its length.

Number 0490

SARAH NEILSON, Staff to Representative Ralph Samuels, in response to a question from Chair Weyhrauch, confirmed that 1984 was the year in which the voters voted on a constitutional amendment limiting the session to 120 days.

Number 0470

REPRESENTATIVE SAMUELS noted the following changes that would be made to HJR 4 by Version D: the effective date, as shown on page 2 of the CS; and a raise from 90 to 110 days [during the first session year] when a new governor takes office, because new commissioners and staff are hired.

CHAIR WEYHRAUCH asked how [Version D] would treat a possible situation where a governor serves more than one term, but not consecutively.

REPRESENTATIVE SAMUELS said that the intent would be to give 110 days to [a governor who returns to office, after a gap where someone else served]. He clarified that 110 days would be given every time there is a change of administration. A governor who is re-elected consecutively would not get the 110 days.

Number 0194

REPRESENTATIVE BERKOWITZ asked if there is a provision in statute for special election of a governor. For example, what would happen if a governor decided to take another position and the lieutenant governor was elevated? Would there be a special election?

REPRESENTATIVE SAMUELS said that he is not sure of the answer, but guessed that there would be no special election, because the lieutenant governor would become governor and would serve the remainder of the term.

REPRESENTATIVE BERKOWITZ stated that when an incumbent governor is running for re-election, in essence it [would] become a campaign issue [if Version D was adopted], because the legislative session [could] be shortened by re-electing the incumbent governor.

Number 0115

CHAIR WEYHRAUCH referred to the previously stated example where the lieutenant governor takes over. He asked if the session after the session during which he/she had taken over would be 90 or 110 days.

Number 0051

REPRESENTATIVE SAMUELS said the 110 days would only apply to an entirely new administration, not just a new governor. When a lieutenant governor steps into the governor's position, all the commissioners would remain the same.

**TAPE 03-46, SIDE A**

Number 0001

CHAIR WEYHRAUCH asked if it wouldn't be cleaner to say, "There was an election of governor. It's a new governor. Now it's 110 days."

REPRESENTATIVE SAMUELS noted that when an incumbent is running for governor, no one [involved in the legislative session] would know whether to make arrangements for 90 or 110 days. He suggested that if the first session only was 110 days, whether or not it's the incumbent who wins the gubernatorial race, he said he still thinks that would accomplish the goal of the legislative branch becoming more efficient.

Number 0148

CHAIR WEYHRAUCH stated that it is important to be as clear as possible when addressing proposed changes to the constitution. He pointed out that the word "election" is used [in Version D], not the words "administration change".

CHAIR WEYHRAUCH proffered that inserting the word "immediately" between "office" and "before", on page 2, line 3, would suit the sponsor's intent.

Number 0260

REPRESENTATIVE SEATON referred to the previous comments of Representative Berkowitz regarding 110 days for a new governor and 90 days for an incumbent. He said he thinks that would build an inequity into the system. He offered the [Conceptual Amendment 1] as follows:

Page 2, line 2, after "governor"  
Delete "who was not serving in that office before the election,"

REPRESENTATIVE SAMUELS said, "Yes, as long as, on line 4, you put 'gubernatorial election'. ... Every time there's a gubernatorial election, the first session after the election would be 110 [days]." In response to a remark by Chair

Weyhrauch, he confirmed that it would not matter whether or not the incumbent [won the race]. That way, he said, as Representative Berkowitz pointed out, "it becomes a moot point on the political issue during an election, during a campaign." He added that that would probably be a smart way to go.

REPRESENTATIVE SAMUELS, in response to the request of Chair Weyhrauch, said he thought [the word "that" on page 2, line 4, should be replaced by] "any gubernatorial".

Number 0480

REPRESENTATIVE BERKOWITZ commented on [subsection (b), on page 2 of Version D] as follows:

If you think a 90-day [session] ought to be the rule, then 90 days ought to be the rule. And when you're carving out exceptions, it's an acknowledgment that 90 days is an inadequate length of time. Different administrations are going to come into power with -- well, I mean, some of them are going to lollygag around, some of them are going to hit the ground running, some of them are going to know exactly what they're going to do, some of them aren't. But if you're using 90 days as an incentive for the legislature to get its act together, then the 90 days ought to be considered an incentive for the governor - whether it's a new governor, or an existing governor - to get his or her administration together. And so, it seems to me [subsection (b)] ought to be removed in its entirety. If we're going to 90 days, let's go to 90 days - let's not pussyfoot around. You look at what other states do; I don't think they make that exception.

Number 0533

REPRESENTATIVE SAMUELS stated that he respectfully disagrees. He continued as follows:

If you don't want it to become the political issue at all, and you do not want to be hurrying either ourselves or a new governor - and particularly a new governor - ... the 100-day session ... gives everybody a chance. As we all know, the entire job is based around relationships - with each other, with the administration, with the administration officials,

with the public - it's all based around relationships. And that would give you a little bit more time, a little bit more leeway to build the relationship with what, in essence, is going to be an entire new cast of characters.

Number 0588

REPRESENTATIVE BERKOWITZ responded that that would be true, then, for the first session of any legislative period. He noted that he has not served with any of [the committee members] before. He asked, "Shouldn't I have the benefit of at least 110 days, assuming this wasn't a gubernatorial election, to get to know you better ...?"

Number 0644

CHAIR WEYHRAUCH stated that it's a "philosophic point." He brought the committee's attention back to Representative Seaton's [Conceptual Amendment 1].

Number 0674

REPRESENTATIVE GRUENBERG said his recollection is that there is no provision for a special election of a governor. If the governor is unable to serve, the lieutenant governor serves, and the lieutenant governor then designates a new person to be the lieutenant governor, "if they step up."

Number 0752

REPRESENTATIVE BERKOWITZ replied that if there's a constitutional flow from the governor to the lieutenant governor, that's one thing, but if it's done statutorily, there's always a possibility that statutes could change, in which case there could be a special election to fill "a period of a governor's seat." He said that that's why he thinks it would be important "for us to have a definitive answer on that front." He said when something is written in the constitution, it's forever, whereas statutes change with 21 votes in the House and 11 in the Senate. Regarding the constitution, he said he thinks there are clear reasons to use concise language that is universal in its application. He said, "We ought to be very clear on this point about succession and whether it's done statutorily or constitutionally."

Number 0824

REPRESENTATIVE LYNN said he wonders in earnest how many of the 120 days in session are spent in at-ease periods, or deliberately delaying a known outcome so "we can all stand up and showboat on something." He said that perhaps limiting the amount of time the legislature is in session would help solve that problem.

Number 0892

REPRESENTATIVE SAMUELS, at the request of Chair Weyhrauch, read [subsection (b)] as it would read with the proposed [Conceptual Amendment 1], as follows:

(b) Notwithstanding (a) of this section, the first regular session held after each gubernatorial election is limited to one hundred ten consecutive calendar days. The session may be extended as provided in (a) of this section.

CHAIR WEYHRAUCH asked if there was any objection to the motion to adopt Conceptual Amendment 1. There being no objection, Conceptual Amendment 1 was adopted.

CHAIR WEYHRAUCH noted that Representative Gruenberg's objection to adopt the proposed committee substitute (CS) for HJR 4, Version 23-LS0178\D, Cook, 4/29/03, as a work draft, is still pending.

REPRESENTATIVE GRUENBERG withdrew his objection. [Version D was treated as adopted.]

Number 1025

REPRESENTATIVE BERKOWITZ moved to adopt Amendment 2 to delete Section 2, [page 1, line 16 through page 2, line 5]. He said he does not find the arguments for a 90-day session to be compelling, but if it will be done for the legislature [it should be done] for the governor. He said that the governor has the ability to extend session and if that is done, "the onus then is on the governor, not on the legislature." He continued as follows:

We don't need to change or set up a different scheme. When you do this, you deviate from one of, I think, the basic rules of constitutions, which is: make things as clean and simple as possible in the

constitution. Constitutions endure. This is one of the reasons why I'm the most conservative person I know in the legislature when it come to constitutional amendments. I vote against every single one of them. You don't mess with the constitution unless it's absolutely necessary.

REPRESENTATIVE BERKOWITZ opined that Section 2 makes the resolution unclear; it muddles it with extra language. He said that "some of these items can be done statutorily," including the issue of a 90-day session.

[REPRESENTATIVE SEATON objected.]

Number 1179

REPRESENTATIVE HOLM said that the governor is "here" for 12 months a year; therefore, a 90-day session would not have much effect. He continued as follows:

I think that what we're trying to do here is to facilitate a new governor being able to pick his administrative aides, his commissioners, [et cetera]. And I'm not sure, in this case even, that ... we ... want to speed that process up too much, and I think what we're talking about here, if I'm not wrong with Representative Samuels, is that we're trying to allow the [legislature] to approve or disapprove of those commissioners after [the governor has] had enough time to ... create his own administration. So, I think there may be a cause for this that has merit.

Number 1241

REPRESENTATIVE SEATON noted that a number of states have varying session length limits. He opined that the more constrained the legislature is made, the more it will rely on a seniority system and more structure, because the new legislators are not going to have the time to become "fully up and running." He stated his concern with the resolution, as well as [Amendment 2] is that "we tend to put in a power structure and make it more effective, the shorter you get to (indisc.)."

Number 1327

CHAIR WEYHRAUCH remarked that Article IX, Section 16, is one of the most obtuse, unclear, and confusing articles in the [Alaska State] Constitution that he has read.

A roll call vote was taken. Representatives Berkowitz and Weyhrauch voted in favor of Amendment 2. Representatives Holm, Seaton, Dahlstrom, Lynn, and Gruenberg voted against it. Therefore, Amendment 2 failed by a vote of 5-2.

Number 1443

REPRESENTATIVE HOLM moved to report HJR 4, as amended, out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE BERKOWITZ stated an objection.

REPRESENTATIVE BERKOWITZ spoke to his objection as follows: He stated that [HJR 4] is a constitutional amendment that requires a degree of seriousness that is not always accorded to bills. He reminded the committee of the relationship of the Founding Fathers to the constitution. The constitutional convention, he noted, involved people who deliberated over the foundational set of laws which guide "who we are and what we do." He said that [HJR 4] might not seem "huge," in and of itself, but it is completely unnecessary. He noted that if the legislature chooses to conduct its business in such a way that it is done in 90 days, "that can happen."

REPRESENTATIVE BERKOWITZ continued as follows:

And so, we're tinkering in the constitution, for what reason? I've seen this resolution before us; Democrats and Republicans do it. It's ... a tennis ball ...; it plays back and forth. And nobody really wants it, but everyone has to be supportive of it, because it's popular. And that's not what the constitution is about.

The whole foundation of the constitution is protecting the rights of the minority, defending the ability of people to stand up and say, "No." It's about the separation of powers. And when you go to a 90-day session ... constitutionally, what you're doing is you're abdicating legislative responsibility to the executive branch. That's wrong.

REPRESENTATIVE BERKOWITZ reiterated that that choice shouldn't be made just because it's popular. He noted that there are many unpopular items in the constitution; people want to get rid of certain things. He said the constitution should be protected. He reiterated that there is no need to make a change, and suggested that the legislature could even be done in 40 or 60 days. He added, "There's nothing that stops us, except for the legislature's own machinations."

Number 1593

REPRESENTATIVE BERKOWITZ noted that he has worked in the Alaska State Legislature for seven years under "super majorities" the entire time. He indicated that super majorities are "legislatures that should have been able to control the flow of legislation, according to their own will and dictates." The failure to do so is not a constitutional failure, he posited, but is a failure of the people in the institution. He opined that putting a constitutional stricture around [the legislation] is unnecessary and ought to be rejected.

Number 1627

CHAIR WEYHRAUCH stated that he thinks the constitution is a living, breathing document that reflects fundamental issues of government, and is "of, by, and for the people." Without an amendment like [HJR 4], he opined, the legislature will never - emphasis on the word never - adjourn in a shorter period of time. He indicated that even if [HJR 4] is moved out of the House State Affairs Standing Committee, it will still undergo passionate debate in [other House committees] and in the Senate, and the issue will ultimately be brought before the public.

CHAIR WEYHRAUCH pointed out that, under the provision of this resolution, the legislature would have the ability to meet for an extended time. He stated, "So, I see this ... as worthy of further movement and discussion by the people."

Number 1699

REPRESENTATIVE GRUENBERG stated, "I would just like to associate myself with Representative Berkowitz's comments." Furthermore, he noted that there is another branch of government, which is the judiciary branch. The balance of power, he said, is a delicate one. For a while, he noted, it became vogue to have term limits. He remarked that in states such as California, [term limits] decimated the balance of power, and have caused

extreme problems. He noted information regarding this issue could be obtained through the Institute of Governmental Studies at the University of California Berkley.

REPRESENTATIVE GRUENBERG noted that some states hold legislative session every other year, or have a budget session every other year. He remarked that those are states with relatively weak legislatures. He opined that Alaska, as a young state, needs to have all its branches of government strong, particularly because the legislature is the only branch that's voted on by the people every two years. He said, "We are the popular branch, and we are the popular House in the popular branch. And we are the most responsible to the will of the people. And to emasculate this branch in this House is a real upset to the balance of power." He warned the legislature to think carefully before tinkering with the balance of power. He said that [shorter sessions] would have effects similar to the unicameral system that was once in vogue, which are: fewer public debates; more deals behind closed doors; more log jams; and less public input.

REPRESENTATIVE GRUENBERG stated that he has great respect for the maker of [HJR 4]. However, he said, "It's a slippery slope." For example, 90 days [may become] 60 days. He indicated that one result may be that the legislature meets for a couple of days, then adjourns for a couple of weeks, and then meets again, but "you're out of touch with the public." He added, "This is not a good idea."

Number 1837

REPRESENTATIVE SAMUELS stated that [HJR 4] is not a partisan issue in any form, because everyone realizes that there will be different parties in power at various times. However, he said that it's the nature of the beast that no matter how long the legislative session is stretched, the time will be filled, and the work will not be done until the very end. He indicated that every legislator present - regardless of experience in office - knows how busy he/she is currently, [compared to] the first six weeks of session.

Number 1900

CHAIR WEYHRAUCH announced that the bill would not be moved today, and he stated his intention to open public testimony at the next hearing on [HJR 4].

Number 1910

REPRESENTATIVE LYNN opined that the previously stated comment regarding the constitution being a living, breathing document is more of a political philosophy than an established fact.

Number 1924

REPRESENTATIVE BERKOWITZ concurred. He noted that things do happen in the first six weeks. The additional time [for legislators] to get to know one another is one of things that happens. He said he doesn't know that that's necessarily critical, but he opined that there's other ways to solve the problem. He stated that he understands the importance of having a deadline at the end of a legislative session; that's when the work happens. He added, "You'll be astounded at just how bad and hard things go at the end." Representative Berkowitz stated, "But we could also get to that same result statutorily. We don't necessarily need to start on day one. Or we could start on day one and take a 45-day break, if that's what the legislature chose to do." He reiterated that the constitution does not need to be changed in order to effect the change trying to be made by [HJR 4].

REPRESENTATIVE BERKOWITZ remarked that many people wouldn't change the state song, but are willing to change the constitution.

Number 1978

REPRESENTATIVE HOLM stated that he would take Representative Gruenberg's comment to mean that if the Alaska State Legislature was in session all year long it would do better work. He opined that Representative Samuels is absolutely correct that if some kind of limits are not in place, [the legislature] could abuse the system at will. Regarding the long discussion of bills, he said it is a good and necessary process; however, at some point in time it gets redundant, and he thinks [the legislature] could certainly be more efficient in its work. He said he thinks that is what Representative Samuels is "trying to get at here."

Number 2035

CHAIR WEYHRAUCH announced that, with the motion and objection still pending, HJR 4 would be held over.

**ADJOURNMENT**

Number 2043

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:09 a.m.