

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

March 16, 2006

8:13 a.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Carl Gatto, Vice Chair  
Representative Jim Elkins  
Representative Bob Lynn  
Representative Jay Ramras  
Representative Berta Gardner  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 290

"An Act relating to issuance of identification cards and to issuance of driver's licenses."

- HEARD AND HELD

HOUSE BILL NO. 438

"An Act relating to initiative, referendum, and recall petitions; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 45

"An Act amending the definition of the term 'lobbyist' in the Regulation of Lobbying Act; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 34

Proposing amendments to the Constitution of the State of Alaska limiting appropriations from certain mineral revenue, relating to the balanced budget account, and relating to an appropriation limit.

- BILL HEARING CANCELED

CONFIRMATION HEARING: STATE COMMISSION FOR HUMAN RIGHTS

- HEARING POSTPONED TO 3/21/06

**PREVIOUS COMMITTEE ACTION**

BILL: HB 290

SHORT TITLE: REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

SPONSOR(S): REPRESENTATIVE(S) LYNN

04/28/05	(H)	READ THE FIRST TIME - REFERRALS
04/28/05	(H)	STA, JUD
03/09/06	(H)	STA AT 8:00 AM CAPITOL 106
03/09/06	(H)	-- Meeting Canceled --
03/16/06	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 438

SHORT TITLE: INITIATIVE, REFERENDUM, RECALL PETITIONS

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

02/08/06	(H)	READ THE FIRST TIME - REFERRALS
02/08/06	(H)	STA, JUD, FIN
03/09/06	(H)	STA AT 8:00 AM CAPITOL 106
03/09/06	(H)	-- Meeting Canceled --
03/14/06	(H)	STA AT 8:00 AM CAPITOL 106
03/14/06	(H)	Heard & Held
03/14/06	(H)	MINUTE(STA)
03/16/06	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 45

SHORT TITLE: CONTRIBUTIONS, LOBBYISTS, DISCLOSURE

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

01/10/05	(H)	PREFILE RELEASED 12/30/04
01/10/05	(H)	READ THE FIRST TIME - REFERRALS
01/10/05	(H)	STA, JUD
02/23/06	(H)	STA AT 8:00 AM CAPITOL 106
02/23/06	(H)	Scheduled But Not Heard
03/14/06	(H)	STA AT 8:00 AM CAPITOL 106
03/14/06	(H)	Scheduled But Not Heard
03/16/06	(H)	STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

NANCY MANLY, Staff  
to Representative Bob Lynn

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Made a suggestion during the hearing on HB 290, on behalf of Representative Lynn, sponsor.

DUANE BANNOCK, Director  
Division of Motor Vehicles  
Department of Administration  
Anchorage, Alaska

said Representative Gruenberg addressed all the changes in his review of Version Y.

MATTHEW KERR

Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of himself in opposition to HB 290.

ELIZABETH BARBARA BACHMEIER

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of herself in opposition to HB 438.

MYRL THOMPSON

Wasilla, Alaska

POSITION STATEMENT: Testified on behalf of himself in opposition to HB 438.

JOHN VINDUSKA

Palmer

Testified on behalf of himself in opposition to HB 438.

ROBIN McLEAN

Sutten, Alaska

POSITION STATEMENT: Testified on behalf of herself during the hearing on HB 438.

MICHAEL MILLER

Palmer, Alaska

POSITION STATEMENT: Testifying on behalf of himself during the hearing on HB 438, addressed the issue of people outside of the state funding petition efforts in Alaska.

REPRESENTATIVE BRUCE WEYHRAUCH

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 45 as sponsor.

BROOKE MILES, Executive Director  
Alaska Public Offices Commission (APOC)  
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 45.

**ACTION NARRATIVE**

**CHAIR PAUL SEATON** called the House State Affairs Standing Committee meeting to order at [8:13:42 AM](#). Representatives Gatto, Elkins, Lynn, Gardner, and Gruenberg were present at the call to order. Representative Ramras arrived as the meeting was in progress.

HB 290-REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

[8:14:45 AM](#)

CHAIR SEATON announced that the first order of business was HOUSE BILL NO. 290, "An Act relating to issuance of identification cards and to issuance of driver's licenses."

[8:14:45 AM](#)

REPRESENTATIVE LYNN moved to adopt the proposed committee substitute (CS) for HB 290, Version 24-LS0981\Y, Luckhaupt, 2/2/06, as a work draft.

REPRESENTATIVE GRUENBERG objected. He said he would first like to hear an outline of the changes made in Version Y.

[8:17:29 AM](#)

NANCY MANLY, Staff to Representative Bob Lynn, Alaska State Legislature, on behalf of Representative Lynn, sponsor, suggested that the director of the Division of Motor Vehicles, Duane Bannock, would best be able to review the changes.

[8:17:56 AM](#)

REPRESENTATIVE GRUENBERG reviewed the changes himself.

[8:18:47 AM](#)

CHAIR SEATON asked Mr. Bannock if there are any further changes that would be brought about through Version Y.

[8:18:55 AM](#)

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Administration, said Representative Gruenberg covered all the changes in his review of Version Y.

[8:19:02 AM](#)

REPRESENTATIVE GRUENBERG removed his objection. There being no further objection, Version Y was before the committee.

[8:19:15 AM](#)

REPRESENTATIVE LYNN, as sponsor of HB 290, noted that a similar bill was before the legislature during its previous session, and many of the concerns raised at that time are still valid today. He said the bill would require that anyone obtaining an Alaska driver's license have a legal presence in Alaska, which coincides with having a legal presence in the U.S. Representative Lynn stated that President George W. Bush signed into law the Real ID Act on May 11, 2005, the provisions of which improve the security of state driver's licenses and identification (ID) cards, which Representative Lynn posited is a good idea. The proposed legislation, he said, is designed to bring Alaska into compliance with "two major components" of the Real ID Act. Applicants with a time-limited legal status may not receive a driver's license or ID card that has an expiration date later than the length of their allowable time in the U.S. If the applicant's paperwork permits an indefinite length of stay, he said, then the expiration date of the license would be one year from the date of issue. Representative Lynn relayed that the federal government has given Alaska the date of May 11, 2008, to come into compliance with the Act, but he stated his belief that the seriousness of the issue deserves action before that time.

[8:21:48 AM](#)

REPRESENTATIVE GARDNER asked what the consequence would be for states that don't comply by the set date.

[8:22:05 AM](#)

REPRESENTATIVE LYNN said he doesn't know.

[8:22:27 AM](#)

REPRESENTATIVE GARDNER asked if the Division of Motor Vehicles has access to the appropriate documents to determine whether someone issued a driver's license who is not a citizen has reached the limit on the length of time he/she is allowed to be in the state.

REPRESENTATIVE LYNN said he believes the division has access to that information.

[8:22:51 AM](#)

CHAIR SEATON noted that there is no fiscal note in the bill packet. He indicated that there would be a legal requirement that the Division of Motor Vehicles determine the validity of documentary evidence, and he questioned what type of liability would be placed on the DMV employees if they "do not catch documents that would not be legal."

[8:24:03 AM](#)

MR. BANNOCK expressed pleasure in being involved with HB 290. He described the legislation as "a part of coming into compliance with the federal Real ID Act." However, he stated that not all of the details of the Act have been completed; the federal rule-making committee is currently meeting to develop "all of the minutia of this Act." Alaska has identified two major components that are out of compliance, which HB 290 addresses. Mr. Bannock told the committee members that during his testimony, he may use the term "driver's license" and mean both driver's license and state issued identification cards.

MR. BANNOCK said the first part of the bill addresses the issuance of a driver's license and the requirement that a person receiving such a card must either be a citizen of the U.S. or have documentation showing he/she is in the U.S. legally. The second part of the bill addresses the group of people who are not U.S. citizens but are here legally. A common example, he said, is that of foreign exchange students who are in the state on a student visa. The bill would allow the DMV the authority to shorten the length of [the validity of] a driver's license to coincide with the expiration of the documents that allow the exchange student to remain in the country legally.

[8:27:02 AM](#)

MR. BANNOCK, regarding Representative Gardner's question about compliance, said if Alaska is not in compliance with the Real ID

Act in time, the division will be required to mark a nonconforming driver's license. As such, that identification cannot be used to access a federal building and will not be recognized as valid identification by the Transportation Security Administration. By May 2008, a person without a government issued ID that meets the federal requirements will not be allowed to board an airplane.

MR. BANNOCK said when Governor Mike Huckabee stated that the Real ID Act puts the Division of Motor Vehicles' employees on the frontline of national defense, he meant that as an insult. Mr. Bannock relayed that when he says the same thing he means it as a compliment. Regarding Chair Seaton's questions related to liability, he indicated that he does not know what liabilities his employees may incur. Notwithstanding that, he emphasized how seriously he takes the issue. He reported that his number one manager of driver's licensing is a member on one of the subcommittees of the federal rule-making committee. He said her work involves foreign documents and "the second group of people ... that we're talking about."

MR. BANNOCK, regarding the technological advances being made in order to comply with both the projected state law and the implementation of the Real ID Act, stated that in his 2007 capital budget he has requested small desktop scanners to get electronic copies of everyone's birth certificates. Mr. Bannock talked about a grant given to the division to "connect with the social security division" through a program called Social Security On Line Verification (SSOLV). The program detects mistakes and fraud related to social security numbers. Mr. Bannock stated that as soon as the division has completely implemented the SSOLV campaign, it will move into the next electronic verification, called, Systematic Alien Verification (SAV), which will allow the division to electronically verify the validity of foreign passports. He predicted that technology would be incorporated by the DMV by 2008.

[8:32:28 AM](#)

MR. BANNOCK, in response to a request for clarification from Chair Seaton, stated his belief that the State of Alaska is ultimately [liable] for anything his DMV employees do or don't do. He offered an example of the benefit of using the verification and storage process previously described.

CHAIR SEATON asked if Mr. Bannock would say that the requirement that the documents be valid will be covered by making a copy of the documents and keeping them in the DMV's records.

MR. BANNOCK answered, "That is one part of it, sir, yes, sir."

[8:33:42 AM](#)

REPRESENTATIVE GARDNER mentioned that there is something called a Metricula Consular card, which is a type of fraudulent government ID card. She asked Mr. Bannock if he is aware of any other fraudulent card that should be included in the bill.

MR. BANNOCK answered no. He stated, "I'm not aware of any nearly-as-broad documents that have been [widely] accepted by other organizations." In response to a follow-up question from Representative Gardner, he confirmed that he is familiar with the Metricula Consular card.

[8:34:47 AM](#)

REPRESENTATIVE GRUENBERG asked, "If the purpose of this is to deter terrorism, and you have an illegal alien, and they can't get on the plane without a valid ID, how are they going to leave the country?"

MR. BANNOCK deferred response to that question to "the Real ID [Act] people."

[8:35:22 AM](#)

CHAIR SEATON, regarding Mr. Bannock's aforementioned statement that those involved with the Real ID Act are currently meeting to discuss the requirements of the Act, asked, "Do we have any indication of what other portions might be required under the issuance of these ID cards?"

[8:35:38 AM](#)

MR. BANNOCK answered yes. He indicated that some of the issues being decided have to do with standardizations and layout of the items listed on driver's licenses and IDs. In response to a follow-up question from Chair Seaton asking if those decisions will be made necessary through statute or regulation, Mr. Bannock said they will be carried out through "some policy and regulation." He stated, "Right now we know of no other [statutorily] required changes other than what is before you."

[8:36:37 AM](#)

REPRESENTATIVE GRUENBERG asked if there have been any court challenges at the state or federal level regarding the constitutionality of an illegal alien being unable to get a driver's license.

[8:37:28 AM](#)

MR. BANNOCK answered that he is unaware of any such cases.

[8:38:01 AM](#)

REPRESENTATIVE GRUENBERG explained his concern is that there have been challenges that state that children of illegal aliens cannot get an education. He said he thinks those cases were struck down on the grounds of equal protection. Barring an illegal alien from getting a driver's license that may be essential to his/her getting to a doctor, a school, or a job may be a denial of equal protection.

[8:38:34 AM](#)

MR. BANNOCK replied that he cannot recall such a lawsuit. He noted that the federal Real ID Act does allow for an option that HB 290 does not take into consideration, and one which he said he would do his best to discourage: the availability of a state to issue a driver's license or ID that has not undergone the same scrutiny as described previously. He offered his understanding that the states of Utah and Virginia offer such a license, but do not allow it to be used as a form of identification. He said he knows of other states considering "a second tier of driver licensing," but he emphasized that he thinks that's poor public policy.

[8:40:08 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that it is actually the states of Utah and Tennessee that offer the special driver's license, and the state of Virginia is considering the option. He continued:

As I understand the basic concept of these laws, ... if you are an illegal alien you can get a license, but it will indicate on there clearly that this doesn't meet the requirement of federal law, you're an illegal

alien, or something like that. Isn't that the basic concept?

[8:41:06 AM](#)

MR. BANNOCK replied that that is an accurate statement.

[8:41:17 AM](#)

CHAIR SEATON said California has been wrestling with the problem of whether it is better to have [illegal aliens] take a driving test to ensure they can read signs and drive safely, or whether it is better to not have them come through the driver's license system. He said, of course, if those illegal aliens are conducting normal, everyday business, that means they are currently driving without any license. He asked Mr. Bannock if Alaska has experienced that problem.

[8:42:11 AM](#)

MR. BANNOCK answered that there are no documented cases of such a problem. He continued:

The reason for my ability to make that statement is that by regulation today - not by statute - ... we are governed by what document we may or may not take. And those documents are only [emphasis on the word "only"] documents that would be in the possession of ... person "A" - the United States citizen, [or] person "B" - a person here legally.

[8:42:46 AM](#)

CHAIR SEATON recalled that during a previous hearing of the bill, there had been discussion about people needing to come from villages to renew their licenses. He stated, "And under this bill, you wouldn't be able to issue a renewal without that documentation, is that correct?"

MR. BANNOCK answered in the affirmative.

[8:43:10 AM](#)

REPRESENTATIVE GARDNER asked if it is accurate to say that if a person does not have a driver's license, he/she cannot get auto insurance.

MR. BANNOCK answered that that is conventional wisdom, but he said he doesn't want to speak on behalf of the insurance industry.

[8:43:39 AM](#)

REPRESENTATIVE GRUENBERG pointed out that a person doesn't have to have a driver's license to purchase auto insurance. For example, a person may own a car, but have a chauffeur do the driving.

[8:44:23 AM](#)

MR. BANNOCK, in response to a remark by Chair Seaton, said he would bring the committee a fiscal note.

[8:44:32 AM](#)

REPRESENTATIVE GRUENBERG told Mr. Bannock that he would like to see the fiscal note broken down into component parts. He said he would also like to know any potential for federal funding related to the Real ID Act and how long those funds would last.

[8:45:31 AM](#)

MR. BANNOCK said the fiscal note will be \$20,000. He stated that although the fiscal note will show that there may be other costs resulting from the Real ID Act, it will only be specific to the programming changes related to HB 290.

CHAIR SEATON asked, "And it won't involve the training that's going to be required to ... ensure validity on the document?"

MR. BANNOCK answered that's correct.

CHAIR SEATON asked Mr. Bannock to show that exception in the fiscal note.

[8:46:24 AM](#)

REPRESENTATIVE GRUENBERG said he would like to know "everything you know that's going to be involved in the implementation of this Act so we can really look at this systemically."

[8:46:42 AM](#)

REPRESENTATIVE GATTO asked if there is a specific action that a DMV employee takes if he/she receives an application that looks like it has been forged.

MR. BANNOCK answered yes.

[8:47:11 AM](#)

MATTHEW KERR testified on behalf of himself in opposition to HB 290. His written testimony read as follows [original punctuation provided]:

My name is Matthew Kerr and I am a small business owner from Anchorage here representing myself. With all due respect to Representative Lynn, I am here to state my strong opposition to HB 290, which would require more paperwork and bureaucracy to issue driver's licenses in Alaska.

This bill has no benefit to our Great State or its residents. It's the worst of government for its own sake. This adds a useless paperwork burden to our residents, our foreign guests, and our DMV. I shouldn't need to remind you that the terrorists had perfectly valid foreign passports and US visas when they boarded the airplanes. This bill does not provide one single benefit to the residents of this state for all the money it would cost.

The first obvious problem with this bill is the cost and difficulty involved in training our DMV agents to be immigration officers. If someone has an expired F-1 student visa, an I-94 entry form marked valid for "Duration of Status" instead of a particular end date, and an I-20 form indicating current enrollment at UAA, could you tell me if they are legally entitled to be here, and for how long? What about someone who renewed their passport while in the US, and no longer has their original visa? Under the proposed rules, a friend of mine would have needed to return to the DMV four times in the past five years to renew their license each time. Immigration paperwork can be extremely complex, and we shouldn't be wasting money to train our DMV agents on the finer points of immigration law.

Second, a driver's license or identification card should be exactly that. A person's ability to drive legally has no logical connection to their immigration status. If I was a foreign visitor, I would skip the trouble, ignore the law, and just continue to use my foreign license for the full length of my stay, instead of obtaining an Alaska license after 90 days. This means that we actually lose the ability to fully maintain that person's driving record. In terms of identification, foreign passports are accepted just as widely as a state ID card.

The only argument I have heard in favor of this bill is that our Alaska ID cards would possibly not be enough to board an airplane. I don't believe that aviation in Alaska would suddenly cease to function because of our driver's licenses. We should be fighting this kind of federal mandate; not giving in to it. Last Tuesday, New Hampshire passed NH House Bill 1582 specifically prohibiting their DMV from implementing these rules, calling them "repugnant to Amendments 4 through 10 of the United States Constitution." I agree with that assertion.

However, the strongest argument against this bill cannot be quantified in financial figures and statistics. People that live here strongly value their privacy, and no Alaskan residents I know are in favor of this bill or increasing the level of bureaucracy at our DMV. This is a slight but unnecessary encroachment on my privacy and yours. I don't want to be asked for more papers when I go to renew my license. The current system isn't broken. Nobody wants this bill, and it has no benefits for us. It honestly disappoints me that a state that rightly prides itself so highly on personal rights could attempt to pass this legislation.

Thank you for listening to my testimony. Please vote against this legislation.

[8:50:48 AM](#)

MR. KERR, in response to questions from Representative Gatto, described the documentation he had to present to obtain his student identification card. He said the first time he registered was in 1992, and he does not recall being asked for

his driver's license. He agreed that it is conceivable that he could have registered without proving he was whom he said, but that the university's regulations could have changed since 1992.

8:52:05 AM

REPRESENTATIVE GRUENBERG asked for a copy of Mr. Kerr's written testimony.

8:52:21 AM

MR. KERR, in response to a question from Representative Gatto, confirmed that he is testifying on behalf of himself; however, he said he travels internationally frequently and has many friends in Alaska and outside the state. In response to a follow-up question from Representative Gatto, he listed some of the reasons that spurred him to testify, including the DMV requirement to maintain a copy of a scanned birth certificate in a database. He said he is a database programmer, and the thought of that information being there scares him a little bit. He said one of the requirements of the Real ID Act is that all 50 states have direct electronic access to the state DMV records. Mr. Kerr said he can easily imagine a disgruntled DMV employee somewhere in Southern California getting ready to quit and deciding to do "a dump of the Alaska records and sell them on the Internet." He said he is sure the state has good security, but no system is perfect. The more information that is out there, the more tempting a target the system becomes, he concluded.

8:53:34 AM

REPRESENTATIVE LYNN said even though he disagrees with Mr. Kerr, he thinks it is helpful to hear both sides of the issue.

8:54:42 AM

CHAIR SEATON asked Mr. Bannock if people will have to submit the aforementioned documents upon renewing a driver's license.

MR. BANNOCK indicated that Version Y would require documentation for renewals. He said, "We are attempting to develop a program right now that if we can verify with the data that we already have, when Representative Paul Seaton shows up at his Homer DMV to renew his driver's license, he will not be required to do that. That is one of the yet unanswered questions of the application by 2008."

8:55:56 AM

CHAIR SEATON announced that HB 290 was heard and held.

HB 438-INITIATIVE, REFERENDUM, RECALL PETITIONS

8:56:18 AM

CHAIR SEATON announced that the next order of business was HOUSE BILL NO. 438, "An Act relating to initiative, referendum, and recall petitions; and providing for an effective date."

8:57:13 AM

ELIZABETH BARBARA BACHMEIER, testifying on behalf of herself in opposition to HB 438, told the committee that she has a Master's degree in Government. She paraphrased her written testimony, which read as follows [original punctuation provided]:

In consideration of the current situation in Alaska and my analysis of this bill, I believe that this is unnecessary legislation. Current procedures are not broken; they do not need to be fixed. Please apply your attention to matters that need your focused attention, consideration, and action.

I have worked as a paid signature gatherer in Alaska on a number of petitions. I am delighted to do this work as it causes me to feel that I am participating in democracy and the qualitative improvement of our state. As a retired military officer and former high school teacher, this activity now allows me to participate at the grass-roots level in democratic principles that I hold dear and that keep our state strong. I like that. Please don't make it more difficult for me and others to participate in this way.

8:59:19 AM

The following are four specific areas that I find objectionable in this proposed legislation (24-LS1344\L, dated 2/8/06):

1) As discussed on pages 6 line 22 and 10 line 9, there is no need to increase the percentage of

qualified voter signatures in order to determine that an initiative, a referendum, or a recall petition has been successful and may appear on an appropriate ballot. Qualified signatures from ten percent of those who voted in the preceding general election comprise a fair sampling of the population. It is important to note that the matter is not finally decided by 10% of the voters; this simply allows the issue to come before all voters on the next voting occasion. This is perfectly fine.

2) I also disagree with setting the maximum rate of meals reimbursement, shown on pages 2 line 2, 4 line 13, and 8 line 6, at only \$15.00 for circulators who travel 100 miles or more from their home communities. This figure is unreasonably low and there is no need to address it in this way.

But, for the record, I taught school near Bethel; \$15.00 there might buy somebody breakfast, but certainly not lunch and dinner, too. I was a circulator in Fairbanks and had meals at the hotel where I stayed; dinner each night was always over \$15.00. If this reimbursement must be addressed, and I don't believe it should be, I recommend the federal per diem rate. In May, legislators will get \$200.00 per day for food and lodging in Juneau during the session. If this must be addressed, why not make the circulator's meals reimbursement equal to the federal per diem rate that you receive when you are away from your homes and staying here?

3) While I was in Fairbanks, I was asked to perform some organizing duties in addition to my signature gathering; I specifically provided circulator training, distributed signature books, collected completed ones, and other duties. I can see no reason to disallow this occasional additional duty as is discussed on pages 2 line 12, 4 line 23, and 8 line 16. Disallowing the activities I have described increases the cost of the initiative, referendum, and recall process. This is not good for democracy or Alaska.

4) One final important point is the fiscal note that must be associated with this bill. The bill speaks of fees or fines charged to organizations, organizers, or circulators as punishment for infractions or

violations to prohibited practices; how are these fines levied, collected, and accounted for? How will these enforcement operations be funded? There is also a new form that is proposed here and that would need to be created and managed. Do we need to spend the State's money in this way? No.

The current initiative, referendum, and recall process works just fine.

There is no reason to change it. Do not pass this proposed legislation.

There are other topics that need your time and attention. This bill seems to make much more difficult the people's right to participate in state and local government. And, this change would be very wrong.

Thank you for allowing me to testify against HB 438. Again, as a person experienced in this work, I believe that changes to the process proposed in this legislation are unnecessary and counter to democracy.

[9:03:22 AM](#)

REPRESENTATIVE GRUENBERG asked for Ms. Bachmeier's testimony in writing.

[9:03:45 AM](#)

MS. BACHMEIER, in response to a series of questions from Representative Ramras, offered her understanding that there is presently no per diem given for meals, but "it is a negotiable item," which "probably would vary, depending on location." She said when she worked on an initiative by Representative Ramras she was not reimbursed for meals; however, she has been reimbursed for meals while working on other initiatives - too many to list separately.

REPRESENTATIVE RAMRAS asked, "Do you understand that it's illegal to take additional money - more than a dollar per signature - as a reimbursable item?"

MS. BACHMEIER replied, "I don't understand that to be the case. I did point this out to you, however, in Fairbanks, when we spoke."

REPRESENTATIVE RAMRAS said, "Which is why we didn't offer any incentives like that, because they're illegal." He described

Ms. Bachmeier as a thoughtful, articulate person, and said that he has a great deal of respect for her, even if her views differ from his own.

MS. BACHMEIER, in response to questions from Representative Ramras, said she received a flat fee for "those tasks that I mentioned: training others in the legal requirements, passing out booklets that were needed, and collecting notarized ones." She said one of those initiatives had to do with "same-day airborne shooting." She said she has lived in Alaska just over a decade.

[9:07:09 AM](#)

REPRESENTATIVE RAMRAS asked Ms. Bachmeier if she thinks it's appropriate for non-Alaska residents with "multiple voter IDs from multiple states" to come to Alaska to participate in the initiative process.

MS. BACHMEIER said she has not heard of such a situation, but she indicated that she does not think such a thing would be appropriate.

[9:08:08 AM](#)

REPRESENTATIVE RAMRAS asked Ms. Bachmeier if she can appreciate that the intent of the bill, as it relates to signature gatherers, is to protect Alaskans.

[9:08:31 AM](#)

CHAIR SEATON said he would like the sponsor to focus on questions unrelated to the intent of the bill, because he said he doesn't think anyone is challenging that intent.

MS. BACHMEIER stated, "Right, and I don't find it protective, so I was going to disagree with the initial premise."

[9:09:01 AM](#)

REPRESENTATIVE GRUENBERG observed that Representative Ramras, [during his questions to Ms. Bachmeier], was focusing on Section 1 of the bill, related to the qualifications of the people who gather the signatures. He said Ms. Bachmeier has expertise [in collecting signatures].

MS. BACHMEIER, in response to questions from Representative Gruenberg, offered her understanding that although she does not [circulate petitions] as her sole means of income, there are others who do, and she said although there may be administrators from out of state, she has never met another circulator working in Alaska who is not an Alaskan.

[9:11:43 AM](#)

MYRL THOMPSON, testifying on behalf of himself in opposition to HB 438, reminded the committee that he was the chair of the successful Ogan Is So Gone recall effort. He shared an anecdote related to initiatives, recalls, and referendums.

[9:14:00 AM](#)

MR. THOMPSON stated that there is absolutely no need for HB 438, because the current system works well. He reviewed the recall process that was used during the Ogan Is So Gone recall, stating that he hopes he never has to go through the grueling process again in his lifetime. He said the process was started 13-14 months before the end of the term of the particular legislator, and a number of months passed before the recall group could get answers to its questions from the Division of Elections on how to proceed. At that point, if a recall petition is approved, then it must be circulated for another round of signatures, he said - up to 25 percent of the people who voted. He offered other details related to the Ogan Is So Gone recall experience.

MR. THOMPSON said that no matter how thorough a recall process is, there are still factors that slow it down. For example, some of the signatures are rejected because people change addresses. He talked about a court challenge, whereby Representative Ogan challenged the criterion for the recall. He stated, "I think that you should probably pull ... the summary of that case, because what they said was that ... those four criterion were actually good enough - ... they don't have to be more specific than that." Mr. Thompson said the definitions that are proposed [in HB 438] seem to "bring this up to almost a criminal level," by requiring proof that is almost impossible to get. He concluded by reiterating that there is no provision in the bill that needs to be adopted; the system works well as is.

[9:20:00 AM](#)

REPRESENTATIVE RAMRAS directed attention to page 5, lines 1-10, which define the terms "corruption", "incompetence", "lack of

fitness", and "neglect of duties". He asked Mr. Thompson for his feedback on the definitions.

[9:21:07 AM](#)

MR. THOMPSON answered, "I feel that they weren't given a definition on purpose." He explained that the courts already said the hurdles don't need to be made any higher than they already are, and the definitions in bill would make the recall process more difficult.

[9:22:04 AM](#)

REPRESENTATIVE GRUENBERG asked if Mr. Thompson and Ms. Bachmeier have suggestions on how the legislature could improve the law.

[9:23:03 AM](#)

MR. THOMPSON, regarding the recalls, reiterated that the present system works well. He said there has only been one recall in the history of the state, and he said he thinks "that speaks volumes."

[9:23:30 AM](#)

MS. BACHMEIER concurred with the remarks of Mr. Thompson that the current system is a good one, and she said she sees no reason to invest energy or funds in making unnecessary changes.

[9:23:49 AM](#)

REPRESENTATIVE GARDNER asked what percentage of signatures in the Ogan Is So Gone recall process was discarded.

[9:24:05 AM](#)

MR. THOMPSON estimated 30 percent, but said that number could have been higher. In response to a follow-up question, he indicated that the rejected signatures happened in "both instances" when signatures were collected, even when extreme attention to detail was given.

[9:24:50 AM](#)

MR. THOMPSON, in response to questions from Representative Gatto, said there were three people, plus himself as chair, who made up the recall committee. In response to a follow-up

question from Representative Gatto, he said he took his job as chair seriously.

[9:26:32 AM](#)

REPRESENTATIVE GATTO offered his understanding that there were some activities during the Ogan Is So Gone recall process that were borderline illegal. He asked Mr. Thompson if, as chair, he would feel it was his responsibility to encourage people engaged in those activities to cease.

[9:27:40 AM](#)

MR. THOMPSON answered absolutely. He emphasized that if he had thought that anybody connected even in the most remote way to a recall was carrying on with such behavior he would have done everything he could to [stop] it. He assured Representative Gatto that no one involved with the Ogan Is So Gone recall had anything to do with borderline illegal activities, if they indeed happened.

[9:29:19 AM](#)

REPRESENTATIVE GATTO referred to the proposal in the bill to raise the 10 percent to 20 percent, and he asked Mr. Thompson how significant an increase that would be and if it would have affected the ability of Mr. Thompson's group to have effected a recall.

MR. THOMPSON said the higher percentage would have made it more difficult for the Ogan Is So Gone recall. He said a requirement for 20 percent would result in a significant increase in time, effort, and cost on the part of gatherers having to obtain the increase in required signatures, and it would translate into more time and money for the Division of Elections, because it would have to hire people to count those signatures. Furthermore, he said, it would also increase the amount of money that has to be paid by the initiative groups that pay \$1 per signature.

[9:29:59 AM](#)

REPRESENTATIVE GATTO asked Mr. Thompson if he agrees that it would be the right of citizens to say that they don't need a reason for a recall, only signatures.

[9:30:23 AM](#)

MR. THOMPSON responded, "I support the system that we have currently in place; I don't think that it needs to be lessened or made harder."

[9:30:59 AM](#)

REPRESENTATIVE GRUENBERG asked Mr. Thompson, "You had to ultimately get 25 percent of what?"

[9:31:11 AM](#)

MR. THOMPSON answered [25 percent] of registered voters in the district [before the recall could get on the ballot].

REPRESENTATIVE GRUENBERG asked Mr. Thompson if he thinks 25 percent is too high.

MR. THOMPSON said that is a reasonable amount - not too low or too high. He added, "All you're doing ... at that point is getting it to where it can go before the vote of the people, and that's a substantial number." In response to a follow-up question from Representative Gruenberg, he said the Ogan Is So Gone recall signature gatherers were able to reach that number.

[9:31:46 AM](#)

CHAIR SEATON asked Mr. Thompson whether that is 25 percent of the number of people who voted in the last election, or if it is 25 percent of the total registered voters.

[9:32:05 AM](#)

MR. THOMPSON indicated that, "to be safe," the Ogan Is So Gone group "went with ... the vote in the last election."

[9:32:15 AM](#)

REPRESENTATIVE GARDNER said she thinks it's important to distinguish that "it doesn't have to be 25 percent of the same individuals, but 25 percent of the number of people."

[9:32:47 AM](#)

MR. THOMPSON responded, "I believe that's the case, because they went through the Division of Elections' result on the number of people that -- actually there was some contention between

ballots cast and voters, which ... did make it a little more difficult also. That changed the numbers somewhat."

[9:33:12 AM](#)

JOHN VINDUSKA testified on behalf of himself in opposition to HB 438. He said he was a signature gatherer during the Ogan Is So Gone recall and because of that experience he knows how difficult it is currently to recall a person. He stated, "It's a very hard process, and I don't believe people are going to recall someone just because of policy difference." He stated his belief that with the current corruption in government, there needs to be a mechanism for people to be able to do recalls. He echoed Mr. Thompson's statement that the Ogan Is So Gone recall is the only successful recall in the history of Alaska, thus, he said he doesn't think people will "be doing this frivolously." He remarked that everything he needed to say Mr. Thompson has already covered, other than the fact that if HB 438 is enacted it will send the wrong message to people by making the bar so high there is no way to get anyone out of office "unless ... they murder someone or something like that." He expressed his support for the status quo and reiterated his opposition to the bill.

[9:36:10 AM](#)

REPRESENTATIVE GATTO asked if there are particular parts of the bill that are glaringly in need of being remedied.

[9:36:49 AM](#)

MR. VINDUSKA replied that the most glaring issue is the proposal to raise the number of signatures required. He said people have to collect signatures within the district of the person being recalled, adding, "Everything is geared to give the representative the benefit of the doubt." He indicated that the bill would squelch future efforts.

[9:38:23 AM](#)

CHAIR SEATON asked Mr. Vinduska to confirm that the interpretation he got from the Division of Elections was that a signature gatherer could not collect the signature of a person from the district of the public official being recalled, unless the person was physically in the district at the time he/she signed the petition.

MR. VINDUSKA answered in the affirmative. He offered further details.

[9:39:21 AM](#)

REPRESENTATIVE RAMRAS announced his intention as sponsor to delete much of the language regarding percentage [increases]. He explained that the bill was intended primarily to address cheating in the initiative process. He asked future testifiers to give him a chance to create a committee substance to "take all that into account."

[9:40:06 AM](#)

REPRESENTATIVE GRUENBERG said the issue of having to collect signatures while within district boundaries may be a technical point to review.

REPRESENTATIVE GARDNER said she has been pouring through statute and doesn't see any reference to a requirement that the signatures have to be collected within the district - only that they must be collected from people who are registered to vote in the district.

[9:41:13 AM](#)

CHAIR SEATON said the committee would seek clarification on the issue from the Division of Elections.

[9:41:28 AM](#)

ROBIN McLEAN, testifying on behalf of herself, relayed her involvement with the Ogan Is So Gone recall. She confirmed, "The Division of Elections did require us to collect signatures in this very massive district only, which I think was a judgment call of the Division of Elections." She explained that instead of being able to collect signatures from a major store where everyone shopped, the signature gatherers had to collect the signatures in rural areas. Regarding the previous comments of [Representative Gatto] regarding the activities reported during the Ogan Is So Gone recall, Ms. McLean said she thinks the people involved in that recall were careful to behave in a professional way and were not involved in any of those activities. She said she would like a law in place [allowing petitioners to gather the signatures of people from a district, no matter if those people are in the district at the time they sign the petition. She explained the reason she would like to

see such a law codified is because, for example, in Anchorage many people don't even know where the district lines are.

MS. McLEAN said she feels the current process for recalls is a fair one. She stated that it is not only a citizen's right, but also his/her duty, to conduct recalls. She noted that those who worked on the Ogan Is So Gone recall effort did so without reimbursement, because they believed deeply in the cause. She added, "Although I believe that's probably the best way, I think that with initiatives and referendums, that's pretty much impossible with the time constraint." She concluded, "I do understand the need to feel that these signature gatherers are ... valid signature gatherers; however, I do very strongly feel that the emphasis should be more on giving citizens the right to sign one of these petitions [than] on the people gathering them."

9:45:48 AM

MICHAEL MILLER, testifying on behalf of himself, addressed the previously stated concern regarding people outside of the state funding petition efforts in Alaska. He stated that, outside of never having witnessed that himself, he wanted to note that an initiative, [referendum], or recall cannot happen without citizens actively wanting it to happen. He explained that people aren't paid to sign - they do so because they believe in the cause. Furthermore, the issues still have to go through a voting process following the signing. He said he doesn't see the purpose of HB 438, unless it's to make the process easier. He stated that the process definitely does not need to be made more difficult, "because there is just not a situation in this state where our government and way of life is being disrupted by people ... swarming in and changing our laws - that's not happening."

9:47:45 AM

CHAIR SEATON, after ascertaining that there was no one else to testify, closed public testimony.

9:48:20 AM

REPRESENTATIVE GRUENBERG expressed his interest in helping to figure out the previously discussed issue regarding where signatures may be collected. He offered his understanding that AS 15.45.580 dealt with this issue.

[9:48:48 AM](#)

CHAIR SEATON announced that HB 438 was heard and held.

HB 45-CONTRIBUTIONS, LOBBYISTS, DISCLOSURE

[9:49:00 AM](#)

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 45, "An Act amending the definition of the term 'lobbyist' in the Regulation of Lobbying Act; and providing for an effective date."

[9:49:05 AM](#)

REPRESENTATIVE BRUCE WEYHRAUCH, Alaska State Legislature, presented HB 45, as sponsor. He noted that the bill is substantially similar to an initiative that will be on the ballot August 2006, with some differences.

[9:50:24 AM](#)

REPRESENTATIVE GATTO moved to adopt the proposed committee substitute (CS), Version 24-LS0312\F, Wayne, 3/10/06, as a work draft. There being no objection, Version F was before the committee.

[9:50:59 AM](#)

REPRESENTATIVE WEYHRAUCH said [Version F] would tighten recording requirements, effecting the amount of contributions that must be reported, and would reduce the number of hours that someone must register as a lobbyist from 40, back to 10. In response to a question from Chair Seaton, he identified the differences between the initiative and the bill. First, he said that the initiative has an effective date of 2005, while the proposed bill has an effective date of 2007. Next, he referred to page 2, beginning on line 20, which is language defining the meaning of "lobbyist", which read as follows:

(B) engages in the influencing of legislative or administrative action as a business, occupation, or profession.

REPRESENTATIVE WEYHRAUCH noted that the original language of the initiative read: "represents oneself as engaging in the influence". He said that language presents problems to the

Alaska Public Office Commission (APOC) because many times there are lobbyists who do not represent themselves as engaging in the practice of lobbying - they don't identify themselves. Representative Weyhrauch stated that the language in Version F is "a clear distinction and a better definition for purposes of ... administering the law."

REPRESENTATIVE WEYHRAUCH indicated that adopting HB 45 would mean not allowing the initiative on the ballot. He said he respects Representative Harry Crawford, the sponsor of the initiative, and they have agreed to disagree. He stated, "I don't like the idea that ... the legislature goes back and changes something once you adopt it, simply to be tricky about getting an initiative off the ballot, so I would absolutely oppose, as an official in the legislature, any changes to this once we do it."

[9:53:07 AM](#)

CHAIR SEATON offered his understanding that an initiative that is adopted cannot be changed for two years, but a law can be changed after one year, and Representative Weyhrauch is saying it is not his intent to change the law any sooner than if the initiative had passed.

[9:53:24 AM](#)

REPRESENTATIVE WEYHRAUCH confirmed that is correct.

[9:54:13 AM](#)

REPRESENTATIVE WEYHRAUCH, in response to a request for clarification from Representative Elkins, explained his previous comments regarding page 2, line 20.

[9:54:41 AM](#)

REPRESENTATIVE ELKINS said he thinks some of the community delegations that come to Juneau spend more than 10 hours [lobbying] in a 30-day period.

REPRESENTATIVE WEYHRAUCH said that is a policy distinction in the bill that is up for debate.

[9:55:20 AM](#)

CHAIR SEATON offered his understanding that the hours counted towards lobbying have to do with active meeting time with legislators, excluding any public testimony.

[9:55:35 AM](#)

REPRESENTATIVE ELKINS reiterated that a recent delegation from Ketchikan spent more than 10 hours.

[9:55:47 AM](#)

REPRESENTATIVE WEYHRAUCH said historically people have to register as lobbyists and fill out a form.

[9:56:02 AM](#)

CHAIR SEATON echoed Representative Weyhrauch's statement that it will be the policy call of the committee to decide the time limit.

[9:56:18 AM](#)

REPRESENTATIVE WEYHRAUCH said he thinks the rule before was four hours in a 30-day period, so the proposed legislation is more of a relaxed standard than it historically was.

[9:56:30 AM](#)

REPRESENTATIVE GARDNER brought attention to the difference between [subparagraphs (A) and (B), in paragraph (10)] of Section 4. She said [subparagraph (B), text provided previously] relates to lobbyists who do their work as a "business, occupation, or profession." [Subparagraph (A)], she said, "is when they do it for payment." [Subparagraph (A) read as follows:]

(A) is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person's agents with any public official for the purpose of influencing legislation or administrative action for more than 10 hours in any 30-day period in one calendar year; or

REPRESENTATIVE GARDNER said, "So, a citizen who comes down to lobby, or somebody who is a teacher who comes down to lobby for

education, is not doing it as part of their profession, business, or occupation; they're citizens lobbying for something, and they wouldn't have to register as lobbyists."

[9:56:55 AM](#)

REPRESENTATIVE WEYHRAUCH suggested that the committee obtain the input of the Alaska Public Offices Commission (APOC).

[9:57:21 AM](#)

BROOKE MILES, Executive Director, Alaska Public Offices Commission (APOC), stated that the commission has a neutral position regarding HB 45. Furthermore, she said that if HB 45 passes, it will have no fiscal impact on APOC.

[9:58:35 AM](#)

MS. MILES, in response to a question from Representative Gardner, stated that elected or appointed municipal officials or employees are exempt from the lobbying law; they never are required to register and report. Individuals hired to represent a municipality are required to register and report the payment amount.

[9:59:55 AM](#)

MS. MILES, in response to a question from Chair Seaton, stated that when employee lobbyists come to Juneau to testify, "under this law they would be subject to the 10-hour test."

[10:00:20 AM](#)

CHAIR SEATON asked if that applies to a fisherman who is self-employed and lobbies on his own behalf regarding a fishing bill.

[10:00:46 AM](#)

MS. MILES responded that an individual who is the sole proprietor of a business or a closely held corporation whose only officers are married partners, for example, has not in the past been required to register and report as a lobbyist. She proffered:

You have a good example with Mr. Myrl Thompson, this year and last year, who covers all of ... [his] own expenses to be in Juneau and works with the process,

and testifies, and frequently would ask for meetings with legislators or staff in efforts to influence legislative action. But no one is paying ... [him]. That's how we see the person who's representing her or his own business.

MS. MILES, in response to a follow-up question, said Mr. Thompson is not considered a lobbyist and, thus, does not have to register, because he is not receiving payments from a third party.

CHAIR SEATON asked if that is clear in statute.

MS MILES answered, "It is in the exemptions section of the statute, which is not part of this bill. But it is clear and has been part of that statute since 1976."

[10:02:36 AM](#)

CHAIR SEATON asked if Ms. Miles if she had any other suggestions for changes that need to be made to avoid confusion.

[10:02:45 AM](#)

MS. MILES answered no. For the committee's information, she noted that there is another type of lobbyist called a representational lobbyist. She said, "That can cover a person who is not employed by or under contract for a fee by the entity that she or he is attempting to influence legislative action on, but the entity covers their expenses." She said those individuals are required to file a registration and make public that they are there representing another party, but they are not required to file lobbyist reports and are not subject to the restrictions on fundraising and participating in the political process that paid lobbyists are, because they are not really considered to be paid. The person, company, or entity that reimburses this person's expenses files a quarterly report disclosing all expenses connected with the person's activity. Those expenses, she indicated, are limited to accommodations, food, beverage, and travel. In response to Chair Seaton, she said APOC thinks "it does provide a good protection for an individual who participates almost as a volunteer with just having their expenses covered in whole or in part, while still giving the public the right to know who those people are who are attempting to influence the public decision makers."

[10:04:31 AM](#)

REPRESENTATIVE GATTO asked if allowing someone [who has come to Juneau to lobby] to use a spare bedroom would be considered compensation.

10:05:05 AM

MS. MILES clarified, "The payment must come from the entity for which the person is trying to influence the legislative action." She offered her understanding that Representative Gatto's example would be called a close economic association with a lobbyist if the lobbyist was paid to come to town. She added, "If it were a citizen lobbyist who comes to town, and you permitted them to stay in your spare bedroom - although I can't speak to the Legislative Ethics Law - it wouldn't be considered compensation to the lobbyist."

10:05:43 AM

REPRESENTATIVE GARDNER said she wants to clarify that Ms. Miles is saying that if she owns a small business and comes to Juneau specifically to lobby for legislation that may effect that business, she would not have to register as a lobbyist; however, if she were to send a paid employee to do the same on her behalf, that employee would have to register as a lobbyist.

10:06:04 AM

MS. MILES answered yes, if that employee has met the 10-hour test.

10:06:10 AM

CHAIR SEATON referred to Section 1, [subsection (b), which read as follows]:

(b) Each group shall make a full report upon a form prescribed by the commission, listing

CHAIR SEATON noted that one of the items reported would be "contributions in excess of \$100". He asked if this means campaign contributions and, if so, if the contribution limit and the reporting requirement apply to individual political campaigns."

10:06:34 AM

MS. MILES outlined that Section 1 addresses reports by political groups, which includes political parties and all varieties of political action committees. She continued:

Before changes to the campaign disclosure law in 2003, all campaign contributions that were received from a contributor that were \$100 or less were not identified by name and address, but simply batched together on each report. ... After the changes in 2003, each contributor, regardless of the amount, was required to be shown by name and address.

In Section 1, this reverses that ruling for groups only, not for candidates. And in a way this would be helpful to the commission, because one of the results of that change in law - particularly with group activity, and particularly with the groups that operate on payroll, withholding, [and] check-off programs, such as labor unions and some corporations - is that ... we're getting these reports that can be 300-500 pages, ... showing weekly or biweekly 75-cent contributions from the same individual, which as you can imagine, requires a lot of staff time to enter data into our database, making the information available to the public. So, this would actually be helpful to the commission.

[10:08:43 AM](#)

MS. MILES, in response to a request for clarification from Chair Seaton, said this change in law would not affect the requirement that each candidate provide a name and address for each contribution. She added, "It is the same as the initiative."

[10:09:38 AM](#)

CHAIR SEATON announced that HB 45 was heard and held.

[10:10:16 AM](#)

REPRESENTATIVE GRUENBERG said the federal government is making it necessary to carry a passport to go to Canada from Alaska, and he said he wants to address the issue in a House Joint Resolution to urge the federal government to be more realistic.

[10:11:06 AM](#)

CHAIR SEATON asked Representative Gruenberg to investigate an issue related to "passport light," and he said he has no objection to Representative Gruenberg's preparing such a resolution to bring before the committee.

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:11:42 AM](#).