

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**January 25, 2005**  
**9:03 a.m.**

**CALL TO ORDER**

Co-Chair Green convened the meeting at approximately [9:03:12 AM](#).

**PRESENT**

Senator Lyda Green, Co-Chair  
Senator Gary Wilken, Co-Chair  
Senator Con Bunde, Vice-Chair  
Senator Fred Dyson  
Senator Bert Stedman  
Senator Lyman Hoffman  
Senator Donny Olson

**Also Attending:** LIEUTENANT GOVERNOR LOREN LEMAN; LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor; LINDA PEREZ, Administrative Director, Division of Administrative Services, Office of the Governor; JAMES ARMSTRONG, Staff to Senator Wilken; SHEILA PETERSON, Staff to Senator Wilken; MILES BAKER, Staff to Senator Stedman; LUCKY SCHULTZ, Staff to Senator Dyson; DAVID GRAY, Staff to Senator Olson; TIM GRUSSENDORF, Staff to Senator Hoffman; LYNNE SMITH, Staff to Senator Bunde; GINGER BLAISDELL, Staff to Senator Green; TRACI CARPENTER, Staff to Senator Green; MINDY ROWLAND, Secretary, Senate Finance Committee; ROBIN PAUL, Assistant Secretary, Senate Finance Committee; ROSE FOLEY, Page, Senate Finance Committee.

**Attending via Teleconference:** There were no teleconference participants.

**SUMMARY INFORMATION**

SB 62-APPROP: DIVISION OF ELECTIONS

The Committee heard from the Lieutenant Governor, the Division of Elections, and the Division of Administrative Services, Office of the Governor. The bill was reported from Committee.

Co-Chair Green introduced Senator Bert Stedman as a new Committee Member. Members introduced their Finance Committee staff as follows: Lynne Smith, Staff to Senator Bunde; Tim Grussendorf,

Staff to Senator Hoffman; Dr. David Gray, Staff to Senator Olson; Lucky Schultz, Staff to Senator Dyson; Miles Baker, Staff to Senator Stedman; James Armstrong and Sheila Peterson, Staff to Senator Wilken; and Ginger Blaisdell and Traci Carpenter, Staff to Senator Green. Finance Committee support staff include Mindy Rowland, Secretary; Robin Paul, Assistant Secretary; and Rose Foley, Finance Committee Page.

Co-Chair Green reviewed Committee protocols pertaining to such things as the teleconference system and bill hearing proceedings.

AT EASE 9:10:32 AM / 9:10:47 AM

Co-Chair Wilken chaired the remainder of the meeting.

#sb62

SENATE BILL NO. 62

"An Act making a supplemental appropriation for increased operating costs of the division of elections; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken explained that this bill, which is sponsored by the Senate Rules Committee by Request of the Governor, would appropriate \$694,900 to the Division of Elections, as increased operating expenses would exhaust the Division's FY 05 funding prior to March 1, 2005.

LIEUTENANT GOVERNOR LOREN LEMAN suggested that this supplemental budget request be recognized as the result of success rather than an indication of failure. The State's November 2004 General Election was a success in addition to the fact that 25,000 more voters voted than in any previous Statewide election, a record numbers of absentee ballot requests were received. In addition, the Division responded to five initiatives and one recall petition, each of which required the Division to hire additional personnel in order to verify, review, and count signatures, and, as required by State law, outside legal counsel provided guidance regarding the recall petition. Furthermore, the Division had to reprint ballots and, in a cooperative arrangement between the State and the Municipality of Anchorage, an Anchorage school bond election was held concurrently with the November General Election. While this arrangement increased costs to the State, the Municipality would remit payment for the \$100,000 expense. The combination of these

elements served to substantially impact the Division's funding; particularly, the expenses associated with the General Election. While a Youth Ambassador Program to train young people as poll-workers was implemented, it did not add to the expenses. This program would assist in providing a pool of replacement workers as long time poll workers age.

LAURA GLAISER, Director, Division of Elections, Office of the Lieutenant Governor, reviewed the summary of the Division's expenses as outlined in her memorandum to the Co-chairs of the Senate Finance Committee, dated January 24, 2005, [copy on file].

Temporary Hire costs in excess of 2002 election cycle costs	\$304.0
Court-ordered Ballot Re-printing costs	\$243.2
Ballot printing	\$203.1
Transportation	\$ 35.6
Destruction	\$ 4.3
Personal Services	\$ 0.2
*Municipality of Anchorage's bond question on General Election ballot	\$104.6
**Recounts - District 5 and Statewide conducted simultaneously	\$ 39.8
***Independent Counsel re: Recall	\$ 37.6
Expedited forms and freight charges	\$ 22.1
Mainframe "chargebacks" in excess of 2000 and 2002 election cycles	\$ 23.3
Additional cost for postage related to by-mail absentee	\$ 19.0
Fax presses	\$ 11.7
TOTAL to date	\$805.3

\*Please see contract with Muni and detail sheet on costs to date

\*\* \$750 and \$10,000 respectively were deposited into the General Fund for the District 5 and Statewide recounts

\*\*\*Please see email from Department of Law regarding costs of independent counsel.

Ms. Glaiser expressed that the largest expense component resulted from the need to hire 13 Temporary Hires to process absentee ballots, review the recall and initiative petitions, and assist in two election recounts: one being a local and one being a Statewide election recount. These tasks placed "an incredible burden" on the Division in terms of salaries and staff overtime.

Ms. Glaiser shared that the reprinting of the ballots was time consuming as the paper supplies were scarce and the turn-around

time was short. Associated costs included destroying of the original ballots and shipping expenses for the replacement ballots.

Ms. Glaiser noted that the incorporation of the Municipality of Anchorage bond packets into the election was not precedent setting as such coordination had previously occurred. The Municipality has not, of yet, reimbursed the State for the \$90,000 plus expense.

Ms. Glaiser noted that the Division owes the Department of Law approximately \$37,000 for their role connected with the independent counsel associated with the Senator Scott Ogan recall petition. This is further detailed in the memorandum [copy on file] from Kathryn Daughhete, Director, Administrative Services, Department of Law, to Lauri Allred, Division of Elections, dated Monday, January 24, 2005.

Ms. Glaiser commented that the Division conducted two recounts: one for a District 5 recount at the request of Tim June, one of the State House of Representatives candidates and a Statewide recount at the request of Alaskans for a Fair Election. Current State Statute limits the cost of the bond required by the requester of a Statewide recount to \$10,000 and the cost for a House District election recount to \$750. Both of the requesters paid the required bond amounts; however the actual costs of the recounts exceeded \$39,000. These recounts were conducted simultaneously to more efficiently utilize staff and contain costs.

Senator Bunde asked whether the \$39,000 expense was the total recount expense as opposed to being the cost associated with the Statewide recount.

Ms. Glaiser clarified that \$39,000 was the total recount expense. The bonds, totaling \$10,750, were deposited into the General Fund.

Senator Bunde asked the cost attributed to the Statewide recount.

Ms. Glaiser responded that this expense is unavailable as the recounts were run simultaneously in order to more efficiently control expenses.

Senator Bunde expressed that the intent of his question was to ascertain the actual costs of conducting recounts as compared to the Statutory bond amounts. Therefore, an approximation would be appreciated.

Ms. Glaiser acknowledged.

Senator Hoffman asked why the recount expenses were three times

higher than anticipated.

Ms. Glaiser clarified that rather than the amount of the bonds being based on estimation, the amount is specified in State Statute. The State must conduct a recount "regardless of the cost."

Senator Hoffman asked when these Statutes were last addressed.

Ms. Glaiser did not have that information.

Co-Chair Wilken asked whether the \$39,800 recount expense would be reduced by the \$10,000 and \$750 bond payments.

Ms. Glaiser clarified that the Division would absorb the \$39,800 expense, as the \$10,000 and \$750 bonds proceeds were deposited into the General Fund.

Lieutenant Governor Leman declared that while the recounts were appropriately conducted, the associated expenses exceeded the amount of the bonds. The Division conducted an AccuVote machine recount with hand-count testing of a representative number of Statewide precincts. This sample testing confirmed that the AccuVote machines are accurate. The entire recount process was reasonable; the \$39,800 expense is an accurate portrayal of the cost of conducting such recounts in this State.

Senator Dyson understood that the expenses resulting from the increase absentee voter requests, the record number of voters, the petitions as well as the recount process were beyond the control of the Division. He asked how these "uncontrollable variables" have historically been addressed.

Ms. Glaiser stated that long-term Division employees have described her as a "magnet for the unprecedented", as there has never been an election cycle that included such things as the processing of five petitions and the record number of absentee ballot requests. "There is no easy mark to compare it against." The Division's most recent large supplemental request resulted from reapportionment issue.

Co-Chair Green informed that the current bond level guidelines were established in State Statutes in 1986.

Senator Hoffman asked for further information regarding the \$304,000 in Personal Costs; specifically as this indicates that the 13 temporary staffers were hired at an average expenditure of \$27,000 each.

Ms. Glaiser clarified that in addition to the wages paid to the 13

temporary staffers, overtime costs for election employees were included in the total. The amount would provide for FY 05 expenses, to date.

Senator Hoffman asked for the expense solely attributed to the 13 temporary workers who processed the five petitions.

Ms. Glaiser asked for clarification as to whether the request is that overtime charges be presented separately from the wages of the extra temporary employees.

Senator Hoffman asked that a breakout of wages and overtime wages be developed.

Ms. Glaiser stated that, while this would be a "difficult process," this information could be provided.

Senator Hoffman understood therefore that this information, which would provide justification for the request, is unavailable today.

Ms. Glaiser concurred.

Co-Chair Wilken asked Ms. Glaiser to continue her testimony.

Ms. Glaiser continued that the Division's database is located on the State's mainframe computer system and that the Division is charged for this usage. To date, this usage, for such things as voter registration and petition processing, exceeds normal election year usage by approximately \$26,000.

Ms. Glaiser shared that the high level of absentee voting by mail resulted in an unanticipated increase in postage expenses. The Municipality of Anchorage would be reimbursing the State for the postage expenses associated with its bond packet election.

Ms. Glaiser noted that, in addition to the increase in mailed ballot voting, there was also an increase in Facsimile voting. As a result, the Division was required to acquire two additional Facsimile presses, which provided 16 additional lines. This cost amounted to \$11,700.

Senator Bunde stated that, while the Committee should be excited were this supplemental request "driven by increased voter participation," it is essential that more detailed information be provided. He surmised that the substantial increase in absentee voters was the result of the political activities affiliated with party politics. He asked whether the Division could compare the number of voters who requested absentee ballots to the number of

ballots actually voted.

Ms. Glaiser responded that comparing the number of the absentee ballots voted to the number requested would be a difficult calculation as the numbers are "skewed" due to many factors including that some absentee voters were sent two ballots because they requested a "special advance ballot" and then they were mailed the official ballot. Were a person to mail the Division both of these ballots, only one would be counted. She noted that there was a 300-percent increase in "special advance ballot" requests. In addition, some people inadvertently requested an absentee ballot thinking they had requested a voter registration form, received an absentee ballot, but voted at their voting precinct. The Division could provide the exact number of absentee ballots that were requested and how many were processed. The inability to provide exact information is "frustrating;" however, "human factors" must be acknowledged.

Senator Bunde clarified that rather than desiring to know the reason that ballots were not returned, he is asking for the percent of requested absentee ballots that were returned.

Ms. Glaiser stated that approximately fifty-percent of the absentee ballots were mailed back to the Division. However, she stressed that this number "is skewed" as some people might have received more than one ballot. Therefore, the numbers must be further evaluated, as the Division's database does not separate Special Advance ballots from absentee ballots.

Senator Bunde asked whether the involvement of "partisan political activity" might have generated some of the absentee ballot increase. Continuing, he asked whether an absentee ballot request that is processed through a political party rather than being individually directed to the Division might incur additional expenses to the Division.

Ms. Glaiser responded that both major political parties conducted voter registration drives for this election. Voter registration drives do incur costs to the State; however, this is viewed "as a good thing." There were instances in which the voter registration information was first submitted to the party and then to the State. This resulted in delays and stress to the Division because some of the voter registration forms were held for up to a month before being delivered to the Division. Thus they could not be processed in a timely manner. In one instance, the Division had to contact approximately 1,000 people by priority mail to confirm information on their voter registration form as a party had altered the application by adhering a sticker to it. The Division did not

separate the costs associated with these efforts by party or per application as the focus at the time was to get the applications processed expediently.

Senator Bunde voiced that rather than his comments being critical of the Division, "the thrust" of his comments was that, were the action of political parties to generate expenses to the Division of Elections, he would support a request that the parties reimburse the Division. However, he applauded the efforts to increase voter participation.

[9:40:37 AM](#)

Lieutenant Governor Lemman commented that his Office would be supporting proposed changes to the process that would address situations in which unwarranted party activities incurred expenses to the State. He noted that although the party altering of the voter registration forms had complied with the Cease and Desist order he had issued, a number of costs were associated with the situation including staff time, postage, and the processing of large batches of registration forms that were delivered. Temporary employees had to be hired to process them expediently.

Senator Hoffman commented that "obviously" the desire is to encourage people to vote. He asked how the Division could assure that the situation in which 2,500 absentee ballots were delayed in the Juneau post office due to both a lack of postage and an under count of the number of ballots being delivered, would not re-occur.

Ms. Glaiser reiterated that this is a "human process," and rather than being a lack of postage, "an accounting error" was made in filing out the paperwork for the post office. The Division has acknowledged the error. The Postal Service should also acknowledge that, on their part, an error was made in that the Division was not contacted until the following day, even though staff could have been contacted that day. The Division regrets the mistake.

Senator Hoffman countered that the Postal Clerk stated that both a lack of postage and a ballot count error were involved.

Lieutenant Governor Lemman stated that this was an unfortunate bulk-mailing mistake. The process is very strict on reconciling the count of the pieces to the paperwork. He declared that the State, which is the Post Office's largest customer in Juneau, is good for the postage and that "it is sad that a lower level Postal employee" held up the mailing rather than conferring with the Postmaster. It is agreed that were such an issue to re-occur, the Postmaster would ultimately make the decision. In summary, two human errors occurred

with the result being that the absentee ballots were not mailed until the next day. He understood that this situation did not result in anyone not receiving his or her ballot in time for the election. It was unfortunate that this occurred and received media attention.

Senator Hoffman agreed, but understood that there were numerous complaints about the processing of absentee ballots. He asked whether the Division could track how many of the delayed ballots were mailed back to the Division in time for the election.

Lieutenant Governor Leman stated that while he has received fewer than 20 complaints from people who had not received their ballot in a time to vote, "one person is too many". The Division would attempt to perfect the process. Efforts would be made to investigate how many of the delayed mailings were not delivered in time.

Senator Olson asked what improvements could be made in order to avoid unexpected expenses and processing delays in future elections; perhaps the 1986 bond requirements should be updated.

Lieutenant Governor Leman reiterated that this appropriation request is not being advanced solely due to problems in the system. There are a number of things involved, and contrary to media representation, no mismanagement occurred. Contributing factors to the request included costs associated with the substantial increase in new voters, the two recounts and their associated bond levels, the costs of managing five petitions, and the costs incurred with conducting concurrent State/local government elections. While the concurrent election costs would be reimbursed, the Legislature must appropriate the funds to pay the bills. In addition, the bond level requirements should be updated to reflect true costs of the process. He would be willing to further discuss the reprinting of the ballots and the lessons that could be learned from that situation.

Senator Olson asked how the Legislature might assist in improving the process so that the Director and the Division of Elections' staff not continue to be subject to criticism.

Lieutenant Governor Leman responded that one problematic area is the time period designated for the receipt of absentee ballot requests. The current process could be likened to a bell curve with a large high, preceded and followed by extreme lows as a result of ballots being batched and processed in a narrow period of time. Extending the processing timeframe would require fewer temporaries and allow the Division to be more efficient.

Co-Chair Wilken, referencing the "FY 2005 Division of Elections Budget Status As of January 24, 2005" spreadsheet provided by the Division [copy on file], asked for further information regarding the footnote, "\$181,300 in CIP Receipts for Personal Services has also been reduced for management reporting purposes".

Ms. Glaiser understood that this footnote referred to receipt money that was removed from the total funding as the result of hiring only one of two positions involved in furthering The Help America Vote Act [HAVA]. This funding was from the Election Fund.

Co-Chair Wilken understood therefore that the CIP Receipts equated to federal HAVA funding.

Ms. Glaiser concurred.

Co-Chair Wilken asked for further information regarding the \$187,599 charge under the "73000 Services" "Obligated" column on the aforementioned spreadsheet.

LYNDA PEREZ, Director, Division of Administrative Services, Office of the Governor, explained that this category includes anything that the Division had purchased, but as of yet, has not been invoiced. This would include the charge-backs for computer services, Central Mailroom services, phones, and other operating costs.

Co-Chair Wilken asked whether the amount consists entirely of interagency charges or whether outside vendor services are included.

Ms. Perez would provide that information.

Co-Chair Wilken understood therefore that the "7300 Services" component includes both interagency and outside vendor services.

Co-Chair Wilken asked whether it is anticipated that any of the expenses depicted on the Division's summary sheet might re-occur in FY 07.

Ms. Glaiser understood the question to be how could the process be refined in order to allow the Division to remain on budget. She stated that when budgeting for FY 07, the Division would be mindful of possible issues that might affect them, but at the same time, must not over-budget. While some issues are presented early, some are not. Such things as whether or not Alaskans are serving their country on foreign soil would also affect absentee numbers.

Therefore the Division would present its best budget estimation. This election cycle was wrought with "multiple unprecedented occurrences.

Co-Chair Wilken asked how voter participation in FY 04 compared to FY 2000 and FY 1996.

Ms. Glaiser stated that she did not have those comparisons with her. However, voter participation in FY 04 was "the highest ever" at 66-percent. She noted that while 24,000 voters were purged from the Voter Registration Rolls, 170,000 new voter applications were processed in 2004. "Real additional voters ... were added to the process."

Ms. Glaiser stated that the FY 04 comparison to FY 2000 and FY 1996 would be provided.

Co-Chair Green asked for further information as to why the Division's summary sheet reflects Total additional expenses of \$805,300, the bill designates \$694,900 and the aforementioned spreadsheet depicts expenses of \$717,500.

Ms. Glaiser responded that the bill specifies the amount determined essential to the Division's operation. While the \$717,500 amount is the Division's "honest projection" of expenses, that amount would be pared back to \$694,900. The \$805,000 is the "real costs" total; however, some of that has been absorbed into the Division.

[10:01:24 AM](#)

Lieutenant Governor Leman addressed the ballot reprinting issue by stating that it should not have occurred. He recounted that a group called "Trust the People," which included three members of the House of Representatives, formed to further an initiative pertaining to how the State's vacant Congressional Senate seat should be filled. At the same time, the Legislature "established by policy" that a special election would be held to replace a vacant State Congressional Senate seat. The House and Senate both passed legislation in this regard, which then went to Conference Committee. The Chair of the Conference Committee, Representative Lesil McGuire, asked him, as Lieutenant Governor, for an opinion in regards to whether the measure language being considered by the Conference Committee was substantially similar to the aforementioned Initiative language. The "rationale" being that, were it deemed "substantially similar", the initiative would be removed from the ballot. His conclusion, as agreed to by both the Department of Law and Legislative counsel, "was that it would be similar, word for word", with the only exception being that the

Conference Committee's language would include a Temporary Replacement provision that "would allow the Governor to name a temporary replacement who would serve from the time of the vacancy until the special election" was held, certified, and the member seated; this time frame might range from three to approximately six months. His opinion was presented in writing to the Conference Committee. There was no discussion in the Conference Committee nor was there any "dissentation" from the Initiative's sponsors. "In fact, the sponsors voted for the Legislation" as well as for the Conference Committee Report when it was presented. It became law.

Lieutenant Governor Leman stated that subsequently, he sent a letter to "Trust the People" notifying them that the Initiative would be removed from the ballot. They sued on the grounds that it was not substantially similar. This was viewed as "a direct confrontation" to himself as Lieutenant Governor as well as to the action taken by the Legislature. In late August 2004, the Alaska Supreme Court issued a decision that the Initiative must be included on the November ballot; with the "ruling to follow". This decision came at a very busy time, being that it was made one day prior to the State's August primary election. The Lieutenant Governor's Office has three days from receipt of the decision to the time when the language was due to the Division of Election for printing. State Statutes require that ballot language be submitted sixty days prior to the date of the election.

Lieutenant Governor Leman concluded that, since the ruling from the court had not been received and the Special Election issue had been addressed by the Legislature, were the Initiative placed on the ballot and adopted, "it would repeal the Temporary Replacement language". This was discussed with the Department of Law. Initiative ballot "language was devised that met the test ... of being fair and impartial." The language was provided to the Division of Elections, posted on the Division's website, and the ballots were printed. Two weeks later, "Trust the People" objected to the ballot language and sued over the language and the ballot title. The Judge agreed, "at least in part", with Trust the People that the language was inaccurate and biased. "With all due respect," the Judge was wrong regarding the inaccuracy ruling. She did not understand the time required to run and certify an election. In addition, she did not explain her statement that the language was inaccurate. This election cycle has proved that it would take approximately an entire month to count ballots and absentee ballots and certify election results, and, including the sixty-day prior to an election ballot language requirement it would require three months to conduct an election. In addition, he did not support the fact that the Judge's opinion ultimately would leave the State without Congressional Senate representation during

the time between the Seat's vacancy and the election.

Lieutenant Governor Leman voiced that the Temporary Replacement provision adopted by the Legislature "struck a happy medium between" Trust the People's desire to prevent the Governor from naming the Seat's replacement and "the parties' bosses" naming "in closed door sessions", the nominees to the seat. The better approach would be to clearly state what was happening and its impact. The Judge's decision timing was so close to the election that it actually jeopardized the delivery of ballots to absentee ballots. Therefore, rather than challenge the Judge's decision to the Supreme Court, the State agreed to reprint the ballot with language that was discussed by Trust the People and the Lieutenant Governor's Office, and approved by the Court. He voiced that, at the end, the Court had accepted against continued objection by Trust the People, the language that had been developed by the Lieutenant Governor's office. "The irony is" that the outcome of the election would not have been significantly different were the original ballot language allowed. However, "tremendous cost to the State" was incurred in order "to satisfy whatever reason the people who were bringing this suit" forwarded it. He declared that the lawsuit was unnecessary and should not have happened. It should be recognized that Courts "are just like us", they are made up of people, and judges make their decisions based on their own biases and backgrounds. What is considered fair and impartial to one person might appear otherwise to another. He declared that the original ballot language "was truthful and should have been allowed to go forward."

Senator Hoffman noted that the backup material contains two different Personal Services expenses: a June 31, 2005 deficit depicted as \$717,000 in the spreadsheet and the \$304,000 depicted on the Division's memorandum.

Ms. Glaiser clarified that the \$304,000 amount depicted on the memorandum reflects the amount the FY 04 election costs exceeded the 2002 election cycle cost. The \$717,000 amount depicts real and projected costs that include the \$304,000.

Senator Hoffman understood that the \$304,000 amount reflects the increase in Temporary Hire expenses as compared to the FY 02 election budget. He asked that a breakout of the total \$618,000 for Personal Services charge be provided; specifically the expenses incurred by the hiring of the 13 additional workers.

Senator Dyson stated that the reprinting of the ballots was "an unfortunate event." In regards to what has been learned and what could be done in order to preclude this sort of thing from re-

occurring, he asked whether a "formal process" with a finite timeline should be established through which petitioners could weight in on the ballot language.

Lieutenant Governor Leman recalled that approximately ten years prior, a group called "FRANK" gathered signatures for an initiative relating to campaign finances and contributions. The Legislature also addressed the issue and, as a result of the Legislative process through which issues are discussed and refined, developed a measure that was similar in nature to the petition, "but corrected some of the deficiencies in the initiative." FRANK was able to participate in this process, accepted the end product as being substantially similar, and did not contest the legislature. In the FY 04 situation, one of the sponsors of the 2004 Initiative was on the Conference Committee and had not objected to the language at either the Conference Committee or the Floor proceeding. Therefore, it was assumed that the language was acceptable.

Lieutenant Governor Leman stated that had he known the Court was going to apply a different standard than what had done before, in that the Legislature should have adopted language that was exactly the same, then his advice to the Legislature would have been, "If you want this to come off the ballot, then pass it in a different format, deal with the other issue later." Another consideration is that the Lieutenant Governor's Office could implement an informal review process that would include proponents and opponents; whose comments would be taken into consideration by the Lieutenant Governor in regards to the proposed ballot language.

[10:19:47 AM](#)

Lieutenant Governor Leman shared that former Lieutenant Governor Fran Ulmer had called him when he was a Senator regarding the wording of several different ballot initiatives she had developed. While he had "differed with her" on the initiative wording, and stated that it was "not a fair characterization of the language", she chose not to accept his language, and he chose not to challenge her position as Lieutenant Governor to write the language.

Senator Dyson asked whether there should there be "a date certain" formal process in which petitioners could weight in on whether the Legislature's effort was substantially the same as the petition as well as whether the ballot language was substantially the same. Were their challenge presented after a specific date, "their objections would be precluded." This would assist in avoiding the situation that recently occurred.

Lieutenant Governor Leman commented that, "that would probably be a

fine thing to do." He quoted former Legislator Ramona Barnes who had stated that, "All you have here as Legislators is your trust." If it were believed that someone would not honor a trust agreement, then this would be good public policy. This would still allow, according to Statute, the Lieutenant Governor to continue "to have deference in writing the language. Even the Court agrees with that." A formal review process "would help eliminate situations like this in the future."

Senator Dyson understood that "the Administration would not be initiating legislation to formalize this process."

Lieutenant Governor Lemman responded that while it might not be submitted as a Governor's bill, were the Legislature to propose it, the Administration would work to further it. He allowed that his advice to the Governor had been to reduce the number of Governor's bills.

Senator Bunde understood that the final ballot language was similar to the original language. He warned that even were a formal review process developed, it might not preclude a third party from suing. He avowed that the purpose of the 2004 lawsuit was to "perpetuate headlines" as well as to change actual language.

Lieutenant Governor Lemman responded that numerous conclusions could be reached in regards to what the motivations were. He read from a letter he had sent to Representative Eric Croft, one of the sponsors of the Initiative [copy not provided] as follows. "I am reticent to question your motives because I do not like it when you question mine. However, when I look at your entire track record on this initiative, I conclude that you could be more interested in politicizing this initiative rather than enacting good public policy."

Senator Hoffman asked regarding the urgency of this particular legislation; specifically whether other fast track supplemental legislation would be forthcoming. He questioned how not fast-tracking this legislation would affect the Division.

Co-Chair Wilken responded that this legislation is on "a very fast track" as the Division's funding would conclude at end of February. Presenting this appropriation as a single item would allow it to move forward without being "entangled" with other issues. Other fast track legislation would be forthcoming.

[10:27:47 AM](#)

Senator Hoffman understood therefore that this legislation is on a

real fast track.

Co-Chair Wilken concurred.

Senator Hoffman asked regarding the Department of Law's legal costs that are included in the bill.

Lieutenant Governor Leman responded that the legal costs were associated with the independent legal counsel relating to the Senator Scott Ogan recall.

Co-Chair Green moved to report the bill from Committee with individual recommendations.

There being no objection, SB 62 REPORTED from Committee.

#

**ADJOURNMENT**

Co-Chair Wilken adjourned the meeting at 10:29 AM