

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 26, 2005

3:35 p.m.

**MEMBERS PRESENT**

Senator Gene Therriault, Chair  
Senator Thomas Wagoner, Vice Chair  
Senator Charlie Huggins  
Senator Bettye Davis  
Senator Kim Elton

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 182

"An Act authorizing the Department of Military and Veterans' Affairs to establish and maintain Alaskan veterans' cemeteries; and establishing the Alaska veterans' cemetery fund in the general fund."

MOVED SB 182 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 183(JUD) am

"An Act relating to the use of campaign contributions for shared campaign activity expenses and to reimbursement of those expenses; and amending the definition of 'contribution' in regard to sharing fundraising lists between candidates and political parties without compensation."

MOVED SCS CSHB 183(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 210(JUD)

"An Act relating to blood testing of certain persons alleged to have committed certain offenses directed toward peace officers or emergency workers."

MOVED CSHB 210(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 215(FIN)

"An Act relating to the investment responsibilities of the Alaska Permanent Fund Corporation; relating to regulations proposed and adopted by the Board of Trustees of the Alaska

Permanent Fund Corporation and providing procedures for the adoption of regulations by the board; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 186

"An Act relating to the Alaska Executive Branch Ethics Act."

MOVED CSSB 186(STA) OUT OF COMMITTEE

SENATE BILL NO. 187

"An Act relating to legislative ethics open meetings guidelines, to the public members of the Select Committee on Legislative Ethics, to alternate members of the legislative subcommittees, to advisory opinions, and to confidential information and proceedings regarding legislative ethics complaints and investigations."

MOVED CSSB 187(STA) OUT OF COMMITTEE

SENATE BILL NO. 127

"An Act prohibiting a public officer from taking official action regarding a matter in which the public officer has a significant financial interest; and defining 'official action' for purposes of the chapter generally referred to as the Executive Branch Ethics Act."

MOVED SB 127 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 127(FIN) am

"An Act relating to service in the peace corps and members of the United States Olympic Team as allowable absences from the state for purposes of eligibility for permanent fund dividends and to the period for filing an application for a permanent fund dividend; authorizing the Department of Revenue to issue administrative orders imposing sanctions for certain misrepresentations or other actions concerning eligibility for a permanent fund dividend and providing for administrative appeal of those orders; and providing for an effective date."

MOVED CSHB 127(FIN) am OUT OF COMMITTEE

#### **PREVIOUS COMMITTEE ACTION**

BILL: SB 182

SHORT TITLE: STATE VETERANS' CEMETARY & FUND

SPONSOR(s): SENATOR(s) HUGGINS

04/19/05 (S) READ THE FIRST TIME - REFERRALS  
04/19/05 (S) STA, FIN  
04/26/05 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 183

SHORT TITLE: CAMPAIGN FINANCE: SHARED EXPENSES/LISTS

SPONSOR(s): REPRESENTATIVE(s) HAWKER

02/28/05 (H) READ THE FIRST TIME - REFERRALS  
02/28/05 (H) STA, JUD  
03/29/05 (H) STA AT 8:00 AM CAPITOL 106  
03/29/05 (H) Moved CSHB 183(STA) Out of Committee  
03/29/05 (H) MINUTE(STA)  
03/30/05 (H) STA RPT CS(STA) 2DP 2NR  
03/30/05 (H) DP: ELKINS, SEATON;  
03/30/05 (H) NR: GARDNER, RAMRAS  
04/06/05 (H) JUD AT 1:00 PM CAPITOL 120  
04/06/05 (H) <Bill Hearing Postponed>  
04/13/05 (H) JUD AT 1:00 PM CAPITOL 120  
04/13/05 (H) Moved CSHB 183(JUD) Out of Committee  
04/13/05 (H) MINUTE(JUD)  
04/14/05 (H) JUD RPT CS(JUD) 6DP 1AM  
04/14/05 (H) DP: GRUENBERG, KOTT, DAHLSTROM,  
COGHILL, ANDERSON, MCGUIRE;  
04/14/05 (H) AM: GARA  
04/19/05 (H) TRANSMITTED TO (S)  
04/19/05 (H) VERSION: CSHB 183(JUD) AM  
04/20/05 (S) READ THE FIRST TIME - REFERRALS  
04/20/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 210

SHORT TITLE: BLOODBORNE PATHOGEN TESTING

SPONSOR(s): REPRESENTATIVE(s) MCGUIRE

03/07/05 (H) READ THE FIRST TIME - REFERRALS  
03/07/05 (H) JUD, FIN  
03/30/05 (H) JUD AT 1:00 PM CAPITOL 120  
03/30/05 (H) Moved CSHB 210(JUD) Out of Committee  
03/30/05 (H) MINUTE(JUD)  
04/01/05 (H) JUD RPT CS(JUD) 6DP  
04/01/05 (H) DP: KOTT, ANDERSON, DAHLSTROM, GARA,  
GRUENBERG, MCGUIRE  
04/12/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/12/05 (H) Moved CSHB 210(JUD) Out of Committee

04/12/05 (H) MINUTE(FIN)  
04/13/05 (H) FIN RPT CS(JUD) 6DP 1NR  
04/13/05 (H) DP: KELLY, HOLM, STOLTZE, HAWKER,  
FOSTER, CHENAULT;  
04/13/05 (H) NR: WEYHRAUCH  
04/13/05 (H) TRANSMITTED TO (S)  
04/13/05 (H) VERSION: CSHB 210(JUD)  
04/14/05 (S) READ THE FIRST TIME - REFERRALS  
04/14/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 215

SHORT TITLE: PERM FUND CORP. INVESTMENTS/REGULATIONS

SPONSOR(S): REPRESENTATIVE(S) ROKEBERG BY REQUEST

03/09/05 (H) READ THE FIRST TIME - REFERRALS  
03/09/05 (H) STA, FIN  
04/12/05 (H) STA AT 8:00 AM CAPITOL 106  
04/12/05 (H) Moved Out of Committee  
04/12/05 (H) MINUTE(STA)  
04/13/05 (H) STA RPT 5DP 1NR  
04/13/05 (H) DP: GARDNER, LYNN, ELKINS, RAMRAS,  
SEATON;  
04/13/05 (H) NR: GATTO  
04/14/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/14/05 (H) Moved CSHB 215(FIN) Out of Committee  
04/14/05 (H) MINUTE(FIN)  
04/15/05 (H) FIN RPT CS(FIN) 4DP 5NR  
04/15/05 (H) DP: HAWKER, FOSTER, MEYER, CHENAULT;  
04/15/05 (H) NR: CROFT, MOSES, HOLM, STOLTZE, KELLY  
04/19/05 (H) BEFORE THE HOUSE  
04/19/05 (H) WEYHRAUCH NOTICE OF RECONSIDERATION  
WITHDRAWN  
04/20/05 (H) TRANSMITTED TO (S)  
04/20/05 (H) VERSION: CSHB 215(FIN)  
04/21/05 (S) READ THE FIRST TIME - REFERRALS  
04/21/05 (S) STA, FIN  
04/26/05 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 186

SHORT TITLE: EXECUTIVE BRANCH ETHICS

SPONSOR(S): SENATOR(S) SEEKINS

04/22/05 (S) READ THE FIRST TIME - REFERRALS  
04/22/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 187

SHORT TITLE: LEGISLATIVE ETHICS/MEETINGS

SPONSOR(S): SENATOR(S) SEEKINS

04/22/05 (S) READ THE FIRST TIME - REFERRALS  
04/22/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211

BILL: SB 127

SHORT TITLE: EXEC. BRANCH ETHICS: FINANCIAL INTERESTS

SPONSOR(S): SENATOR(S) FRENCH

03/03/05 (S) READ THE FIRST TIME - REFERRALS  
03/03/05 (S) STA, JUD  
04/26/05 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 127

SHORT TITLE: PFD:PEACE CORPS/OLYMPIAN/SANCTIONS

SPONSOR(S): REPRESENTATIVE(S) MCGUIRE

02/04/05 (H) READ THE FIRST TIME - REFERRALS  
02/04/05 (H) STA, FIN  
03/03/05 (H) STA AT 8:00 AM CAPITOL 106  
03/03/05 (H) Heard & Held  
03/03/05 (H) MINUTE(STA)  
03/05/05 (H) STA AT 9:30 AM CAPITOL 106  
03/05/05 (H) Moved CSHB 127(STA) Out of Committee  
03/05/05 (H) MINUTE(STA)  
03/09/05 (H) STA RPT CS(STA) NT 5DP  
03/09/05 (H) DP: LYNN, GATTO, RAMRAS, GRUENBERG,  
SEATON  
03/29/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/29/05 (H) -- Meeting Canceled --  
03/30/05 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
03/30/05 (H) Moved CSHB 127(FIN) Out of Committee  
03/30/05 (H) MINUTE(FIN)  
04/01/05 (H) FIN RPT CS(FIN) NT 7DP 1NR  
04/01/05 (H) DP: HAWKER, STOLTZE, JOULE, CROFT,  
MOSES, FOSTER, MEYER;  
04/01/05 (H) NR: KELLY  
04/01/05 (H) TRANSMITTED TO (S)  
04/01/05 (H) VERSION: CSHB 127(FIN) AM  
04/04/05 (S) READ THE FIRST TIME - REFERRALS  
04/04/05 (S) STA, FIN  
04/21/05 (S) STA AT 3:30 PM BELTZ 211  
04/21/05 (S) Heard & Held  
04/21/05 (S) MINUTE(STA)

04/26/05 (S) STA AT 3:30 PM BELTZ 211

**WITNESS REGISTER**

SHALON SZYMANSKE,  
Staff to Representative Lesil McGuire  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Introduced CSHB 210

EVERT ROBINS, President  
Anchorage Police Department Employees Association  
Anchorage, AK  
**POSITION STATEMENT:** Supported HB 210

DEBORAH GRUNDMAN,  
Staff to Senator Charlie Huggins  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Introduced SB 182 for sponsor

JOYCE ROKEBERG  
Fairbanks, AK  
**POSITION STATEMENT:** Supported SB 182

JERRY BEAL, Director  
Department of Military & Veterans  
Affairs  
PO Box 5800  
Ft. Richardson, AK 99505-0800  
**POSITION STATEMENT:** Supported SB 182

JUNE CHANCE,  
Administrative Services Manager,  
Department of Military & Veterans  
Affairs  
PO Box 5800  
Ft. Richardson, AK 99505-0800  
**POSITION STATEMENT:** Supported SB 182

JULIE LUCKY,  
Staff to Representative Mike Hawker  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Introduced HB 183 for sponsor

BROOKE MILES, Executive Director

Department of Administration  
Alaska Public Offices Commission (APOC),  
2221 E. Northern Lights, Rm 128  
Anchorage, AK 99508-4149

**POSITION STATEMENT:** Commented on HB 183

REPRESENTATIVE NORMAN ROKEBERG  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Sponsor of HB 215

MIKE BURNS, Chief Executive Officer  
Alaska Permanent Fund Corporation  
Department of Revenue  
PO Box 110400  
Juneau, AK 99811-0400

**POSITION STATEMENT:** Testified on CSHB 215

SENATOR RALPH SEEKINS  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Sponsor of SB 186 and SB 187

JOYCE ANDERSON, Administrator  
Select Committee on Legislative Ethics  
P.O. Box 101468  
Anchorage, AK 99510-1468

**POSITION STATEMENT:** Discussed suggested changes on SB 187

MERLE THOMPSON,  
Susitna Valley, AK

**POSITION STATEMENT:** Expressed the view that SB 187 addresses  
the wrong issue

SENATOR HOLLIS FRENCH  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Sponsor SB 127

#### **ACTION NARRATIVE**

**CHAIR GENE THERRIault** called the Senate State Affairs Standing  
Committee meeting to order at [3:35:06 PM](#). Present were Senators  
Elton, Wagoner, Davis, Huggins, and Chair Therriault.

#### **CSHB 210(JUD)-BLOODBORNE PATHOGEN TESTING**

CHAIR GENE THERRIAULT announced HB 210 to be up for consideration.

[3:35:43 PM](#)

SHALON SZYMANSKE, Staff to Representative Lesil McGuire, explained the bill expands the current policies and procedures for testing for blood borne pathogen exposure to include peace officers, firefighters, emergency medical technicians and mobile paramedics.

The bill sets out procedures to determine whether a first responder was exposed to blood borne pathogens while working. It provides means to protect the identity of the person being tested as well as procedures for court ordered testing in the event a person refuses to submit to a test.

[3:37:32 PM](#)

CHAIR THERRIAULT asked whether the bill deals with body fluids in addition to blood.

MS. SZYMANSKE said it does.

CHAIR THERRIAULT asked about the new Section 5.

MS. SZYMANSKE said that section adds departments and municipalities.

[3:38:41 PM](#)

SENATOR THOMAS WAGONER asked whether contract employees were given any consideration.

MS. SZYMANSKE replied she didn't believe the bill addressed that issue.

SENATOR WAGONER pointed out that other employees might be exposed so the scope might not be broad enough.

MS. SZYMANSKE assured him the sponsor would be willing to make additions.

SENATOR WAGONER said he wasn't going to offer an amendment, he was simply asking the question.

CHAIR THERRIAULT questioned whether the language protecting contractors is covered by the Section 7 repealer. Referencing

the word "employed" on page 7, line 7 he said he wasn't sure whether it would be construed globally.

MS. SZYMANSKE responded she didn't have an answer.

[3:42:36 PM](#)

CHAIR THERRIAULT questioned whether Section 6 was drafted to cover regular salaried employees and contract employees.

SENATOR WAGONER said prisons have all types of people who are exposed to prisoners and could therefore be exposed the same as the guards. He suggested that contract employees certainly shouldn't be excluded.

[3:43:25 PM](#)

SENATOR KIM ELTON said it appears as though a distinction is made for municipalities, but not necessarily for the state. The way he reads it, a contract employee may not be covered. He agreed with Senator Wagoner that everyone who may be put in a situation that may result in a health question like this ought to be covered.

CHAIR THERRIAULT mentioned a number of contract employees and said he believes they should be covered.

[3:45:13 PM](#)

EVERT ROBINS, President, Anchorage Police Department Employees Association, stated strong support for the bill.

[3:47:35 PM](#)

CHAIR THERRIAULT asked if he had an opinion on whether contract employees should be covered.

MR. ROBINS said it's a good idea but the association really looks at this as a bill for first responders.

SENATOR CHARLIE HUGGINS asked if he had any volunteer policemen that participate, but aren't employed.

MR. ROBINS said there is a citizen academy in Anchorage, but they try not to use those people as first responders.

SENATOR HUGGINS asked how he would suggest those individuals be treated.

MR. ROBINS replied when they're riding with him they wouldn't be first responders.

[3:49:38 PM](#)

SENATOR KIM ELTON asked if it's correct that the bill only provides for the process that would be used for adult or juvenile offenders and not for a victim. He could see the benefit for a first responder in a narrow set of cases in which the first responder may be exposed to someone who is a victim and may become an offender.

MR. ROBINS replied the bill is for defendants. Victims are typically compliant and volunteer samples, but defendants frequently deny testing.

CHAIR THERRIAULT stated that in the interest of time he'd be willing to move the bill on to the Judiciary Committee with the recommendation to amend to include contract workers. He found no objection.

[3:51:28 PM](#)

SENATOR WAGONER motioned to report CSHB 210(JUD) from committee with attached fiscal notes and individual recommendations.

CHAIR THERRIAULT announced that without objection, it was so ordered.

**SB 182-STATE VETERANS' CEMETARY & FUND**

CHAIR GENE THERRIAULT announced SB 182 to be up for consideration.

[3:51:59 PM](#)

DEBORAH GRUNDMAN, Staff to Senator Huggins, explained that SB 182 would put in place the mechanism for the Department of Military and Veterans' Affairs (DMVA) to establish and maintain veterans' cemeteries in the state.

[3:53:28 PM](#)

SENATOR CHARLIE HUGGINS, Sponsor, described SB 182 as a forward-looking approach. It would create a framework whereby DMVA and local communities could work together and find land that would become state land and a future potential site for a state veterans' cemetery. Based on demographics, he suggested that Fairbanks would be a likely starting point.

SENATOR KIM ELTON questioned whether there was a difference between SB 182 and the House bill.

SENATOR HUGGINS replied he thought Representative Guttenberg had a bill, but he wasn't sure whether it was the same or different. He advised that he has worked on this issue for several years.

SENATOR DAVIS noted she had a copy of the House bill.

[3:58:02 PM](#)

JOYCE ROKEBERG, Fairbanks, reported that her late husband also had a dream for a veterans' cemetery in the Interior. She made the point that it is difficult for family and friends to visit cemeteries that are located a long distance from home.

[4:00:58 PM](#)

JERRY BEAL, Director, Department of Military and Veteran Affairs, testified that SB 182 is more substantial and comprehensive than the House bill. He stated that the department certainly supports the idea of having an Interior veterans' cemetery. During the recent American Legion Convention in Kodiak, a resolution was passed supporting an Interior cemetery for state veterans.

[4:02:49 PM](#)

JUNE CHANCE, Administrative Services Manager, Department of Military & Veterans Affairs, stated support for the bill.

There was no further testimony.

CHAIR THERRIAULT noted the indeterminate fiscal note and the Finance Committee referral. He asked for the will of the committee.

SENATOR THOMAS WAGONER motioned to report SB 182 from committee with individual recommendations and attached fiscal note. There being no objection, it was so ordered.

[4:04:29 PM](#)

CHAIR THERRIAULT announced Vice-Chair Wagoner would step in as chair so that he could attend a different meeting.

**CSHB 183(JUD)-CAMPAIGN FINANCE: SHARED EXPENSES/LISTS**

VICE-CHAIR THOMAS WAGONER announced CSHB 183 to be up for consideration.

[4:05:56 PM](#)

JULIE LUCKY, Staff to Representative Mike Hawker, explained that HB 183 makes several changes to the Alaska Public Offices Commission (APOC) statutes regarding campaign finances. It clarifies that reimbursement for a shared expense isn't an illegal campaign-to-campaign contribution. It also clarifies that sharing a fundraising list by a party or candidate to a party or candidate isn't an illegal campaign-to-campaign contribution.

[4:07:04 PM](#)

VICE-CHAIR WAGONER noted the proposed amendment.

SENATOR CHARLIE HUGGINS asked about the catalyst for the bill.

MS. LUCKY said there was no particular incident. APOC regulations are silent on shared fund raising and this provides clarification.

[4:09:12 PM](#)

VICE-CHAIR WAGONER asked for a motion to adopt the proposed amendment.

SENATOR BETTYE DAVIS moved Amendment 1. There being no objection, Amendment 1 was adopted.

**AMENDMENT 1**

TO: CSHB 183(JUD) am

Page 2, line 20, following "within"

Delete "five working"

Insert "seven"

[4:10:09 PM](#)

BROOKE MILES, Executive Director, Alaska Public Offices Commission (APOC), stated that the commission understands why this may be useful to candidates who share a campaign activity. APOC suggested the amendment and with its passage APOC has no further concern with the bill.

[4:11:29 PM](#)

VICE-CHAIR WAGONER closed public testimony and asked for the will of the committee.

[4:11:57 PM](#)

SENATOR KIM ELTON motioned to report SCS CSHB 183(STA) and attached fiscal notes from committee with individual recommendations. There being no objection, it was so ordered.

**CSHB 215(FIN)-PERM FUND CORP. INVESTMENTS/REGULATIONS**

VICE-CHAIR THOMAS WAGONER announced CSHB 215(FIN) to be up for consideration.

[4:13:18 PM](#)

REPRESENTATIVE NORMAN ROKEBERG, Sponsor, reported the bill speaks to the investments of the Alaska Permanent Fund Corporation that are guided by a statutory list, which includes restrictions and asset caps for particular investment categories. He asserted that because of the statutory restrictions, the fund may be taking greater risks without the promise of higher returns.

Modern investment theory focuses on the combined risk of an entire portfolio rather than the risk of each asset type. Therefore, he said, it's important to diversify a portfolio among assets that aren't correlated in performance. He suggested that such diversification is more likely to result in a positive return for the fund while reducing the overall risk.

In the past the legislature has changed the statutes to address circumstances such as reaching investment caps that resulted

from investment appreciation. At one point the legislature introduced a "basket clause" to allow more flexibility in the portfolio, but it leaves little opportunity to invest in new asset types or for growth in existing assets.

He mentioned a recent Attorney General opinion that states that the legislature has the ability to move the investment list to regulation where the trustees may make changes in a more timely fashion.

HB 215 makes that change and gives the trustees the flexibility and freedom to establish and administer a legal investment list in regulation while conforming to the Prudent Investor Rule. He noted that the fund is exempt from the Administrative Procedures Act.

[4:16:59 PM](#)

SENATOR KIM ELTON asked for a response to the criticism that the legislature is abdicating its role by turning over its power to a board of trustees that works in the executive branch. Furthermore, its members may or may not have any more expertise than some legislators.

REPRESENTATIVE ROKEBERG responded he didn't believe that the combined wisdom of 60 minds is in any way superior to the professional advice and management of the Permanent Fund Corporation. Referencing his own broad knowledge of fiscal management, he said he wouldn't want the responsibility. It's in the best interest of the state to allow the corporation the proposed flexibility, he declared.

[4:21:45 PM](#)

MIKE BURNS, Chief Executive Officer, Permanent Fund Corporation, introduced himself and Laura Ashe, Director of Communications and Research.

He reminded members that four key elements would remain with the proposed change:

- Investments would always be made under the Prudent Investor Rule.
- The board may leverage assets only if there is no recourse to the fund.
- The board must maintain a diverse mix of assets
- In-state investments must have a risk and return comparable to other investment alternatives.

To illustrate new ideas in the investment arena he pointed out that the corporation recently let one Small CAP manager go and hired nine at \$60 million apiece. Experience has shown that more managers in that particular area result in a better chance of success. That's not necessarily the case in other asset classes, however.

It's important to note that the corporation wouldn't have hired half of those managers on their own, but the fit was right as a team approach and the asset class is covered more completely. Stability is achieved when one manager's returns aren't correlated with another manager's returns.

He offered two perspectives to the question about the independence of the trustees. The first draws on his 20-year banking experience in dealing with the fund. In that time he has always been impressed with the commitment and independence of the trustees. Second, the legislation that was passed in the last session further insulated the trustees from the political process in that trustees can only be removed for cause.

MR. BURNS highlighted two points for the record:

- Forty-four of the fifty states manage their pension funds and endowments according to the Prudent Investor Rule.
- Use of a statutory investment list is waning across the country and it's time for Alaska to move in that direction.

[4:26:21 PM](#)

VICE-CHAIR WAGONER asked how many states that are using the Prudent Investor Rule have a fund that's equivalent to \$30 billion.

MR. BURNS responded there are few endowment funds similar to the Alaska Permanent Fund, but more typically they're managing state pension funds. Some of those are much larger and some are smaller. For example, the California Public Retirement Pension Fund is about \$230 billion and Wyoming has a permanent fund that's considerably smaller than Alaska's.

There were no further questions or testimony.

VICE-CHAIR WAGONER set CSHB 215(FIN) aside.

VICE-CHAIR WAGONER called a recess from [4:28:28 PM](#) to [4:33:44 PM](#)

**SB 186-EXECUTIVE BRANCH ETHICS**

VICE-CHAIR THOMAS WAGONER, announced SB 186 to be up for consideration.

[4:34:08 PM](#)

SENATOR RALPH SEEKINS, Sponsor, said the question of ethics legislation arose with the recent high profile case of the former attorney general (AG). It was determined that the state law regarding when someone may have a potential conflict of interest that might relate to the state ethics laws required clarification.

Former U.S. Attorney Robert Bunde's investigation of the case pointed out that Alaska has no clear bright line regarding what is a significant interest in a company when the company may benefit or be harmed by a state employee. Governor Murkowski agreed and said to find a way to address the concern.

As Judiciary Committee chair, he compared current Alaska law to laws in other states and the federal government. In an effort to find proper terminology that could be reduced to state law he examined the ethical standards of various professional associations and the generally accepted accounting principles (GAAP).

Review of broad and narrow treatises indicated that with too much restriction on allowing government employees and officials to have investments qualified people are driven from meaningful government service. This is particularly true for those who enter government service as a capstone to their career, he said.

Everyone agrees that high moral standards in public offices are essential to assure the trust, respect and confidence of the people. It's also agreed that a fair and open government requires that public officers conduct the public's business in a way that preserves the integrity of the process and avoids conflicts of interest. However, there isn't agreement on how to do that.

[4:39:39 PM](#)

SENATOR SEEKINS said when he started with the recommendations that Mr. Bunde made, discussion immediately ensued regarding the meaning of "value" and "significant" when applied to different

companies and individuals. He tried to reach a balance point for conducting the business of government while protecting public interest and not violating the public trust.

[4:41:10 PM](#)

When a person has evidence of an ethics violation by a public employee, that person has a moral responsibility to report that behavior. No public law should discourage that action. He asserted that no proposed legislation encroaches on a citizen's constitutional right to speak openly about what they've heard or seen.

SB 186 provides that anyone bringing or knowing of a formal complaint filed with the personnel board becomes a participant in the process and should be held to the same high standard of confidentiality as the members of the personnel board. Because ethics complaints must not be frivolous or filed with evil intent, there must be a stiff penalty for anyone who knowingly perverts the confidentiality process. This is common practice, he said.

Even the proceedings of the personnel board or the investigatory process by the AG's office prior to a finding of probable cause would be held in high confidence. This is to protect the innocent from trial in the media.

When there is probable cause the charge would be made public, but if the charge were found to have no basis in fact an individual's reputation would not be besmirched.

[4:46:29 PM](#)

SB 186 is the starting point for legislators to work collectively to develop a proposal that prosecutes those who have violated ethics laws and maintains confidentiality throughout the process until probable cause is determined.

[4:47:37 PM](#)

SENATOR CHARLIE HUGGINS asked what happens when probable cause is determined.

SENATOR SEEKINS said he understands that when someone comes forward with an ethics complaint an investigation begins. All proceedings are confidential; they have the right of subpoena and the right for discovery. At some point a decision is made as

to whether there is probable cause. If there is probable cause the matter becomes public; if there isn't probable cause the matter does not become public.

[4:51:45 PM](#)

SENATOR KIM ELTON directed attention to Section 1, which provides for criminalization of releasing confidential information. Using the example of telling his wife that he had to hire and pay for legal services, he demonstrated how easy it would be to innocently violate the proposed confidentiality provision. If the bill were to become law, that exchange would create a class A misdemeanor.

[4:53:39 PM](#)

SENATOR SEEKINS responded, "If you know that there is an investigation, keep your mouth shut."

SENATOR ELTON questioned not being able to tell his wife.

SENATOR SEEKINS acknowledged he might not get away with that. Nevertheless, the intention in SB 186 is to stop the gossip chain to protect the innocent.

SENATOR ELTON changed topics and said it's clear that there are multiple interpretations for an appropriate bright line regarding equity interest. With that in mind he was curious how he arrived at the \$10,000 figure.

SENATOR SEEKINS answered Mr. Bunde proposed that amount.

SENATOR ELTON directed attention to page 2, lines 7-10. He noted that (B) has a qualifier on the \$10,000 and (C) does not have a qualifier. He asked if he was missing something.

SENATOR SEEKINS replied you could own 100 percent of an equity position as long as it doesn't exceed \$10,000.

SENATOR ELTON raised a question about page 6, Sec. 16.

SENATOR SEEKINS announced he would propose an amendment to that section, which could be considered in either this committee or in the Judiciary Committee. The intention is to define "family member" in reasonable terms to include only those who live in your household because you would have some knowledge of their investments.

5:01:33 PM

SENATOR CHARLIE HUGGINS asked what sorts of things Mr. Bunde was trying to clarify.

SENATOR SEEKINS responded he was trying to define what would constitute a substantial or significant interest.

VICE-CHAIR WAGONER declared there's a serious problem associated with the attorney general, who is appointed by the governor, investigating an ethics complaint against the governor.

SENATOR SEEKINS said he shares that concern and his proposed amendment would address that issue to some extent. If the governor suspected that the attorney general committed an ethics violation, the governor would ask the personnel board to select an investigator who would conduct an investigation with full subpoena powers. If an ethics violation did occur, the governor would file a complaint with the personnel board and it would move forward with the regular process.

He suggested that same process would take place if an ethics complaint were filed against the governor.

5:08:22 PM

SENATOR ELTON used the example of former Attorney General Renkes and the reports in the Anchorage Daily News to point out what would be an unintended consequence in Section 1. At the point that the investigator contacted the reporter to ask about deleted emails and when it was that Attorney General Renkes had been interviewed, that reporter would have been precluded from talking about the investigation let alone reporting on it.

SENATOR SEEKINS replied he didn't believe that successful prosecution of a member of the press would take place, but the governor could be prosecuted if he/she revealed a confidential matter as part of an investigation.

SENATOR ELTON referenced AS 39.52.340(a) and said the AG wouldn't have been able to talk to the governor about the investigation under the provisions of Section 1. If he mentioned that an investigation had begun he would have committed a class A misdemeanor.

SENATOR SEEKINS agreed that once the accused was told by the accuser that there is an investigation then the process would have to go forward before any further conversation could take place.

There were no further questions or testimony.

VICE-CHAIR WAGONER announced he would hold SB 186 in committee.

He called a brief recess at [5:12:36 PM](#).

### **SB 187-LEGISLATIVE ETHICS/MEETINGS**

VICE-CHAIR THOMAS WAGONER announced SB 187 to be up for consideration.

[5:13:59 PM](#)

SENATOR RALPH SEEKINS, Sponsor, related that when he began reviewing the Executive Ethics Act there was indication that the Legislative Ethics Act should be reviewed as well.

He asserted that the same level of confidentiality should apply. The intent is to hold someone who files a complaint or is involved in the process to the same level of confidentiality as the members and staff of the Select Committee on Legislative Ethics. The investigators would also be brought under that umbrella of confidentiality.

Current law says if a complaint is brought and then the complainant goes public, then the complaint is dismissed. However, the committee could go forward with an investigation. He submitted that if an ethics complaint is filed and the complainant immediately goes public with the allegation the committee would have no recourse but to dismiss the complaint and then go forward and investigate the allegations. He charged that that's a toothless law.

[5:17:32 PM](#)

Confidentiality must be maintained until probable cause is reached. At that point the complaint could become public. If the complaint is dismissed as frivolous or baseless it remains confidential. However, if a complaint is filed and the person who is charged chooses to publicly defend him or herself then the entire record becomes public. That provision applies to both this bill and SB 186, he said.

The bill also attempts to clarify that the way the legislature conducts business is the legislature's business and responsibility. Any attempt by a legislator to break the rules is taken seriously and the complaint is immediately taken to the body to determine what the procedure should be. The proceeding is in the full light of day and is discussed openly.

SENATOR CHARLIE HUGGINS asked about the alternate member.

SENATOR SEEKINS said having an alternate member increases the likelihood that a full committee could meet and conduct the committee's business, which includes voting.

[5:30:14 PM](#)

SENATOR ELTON said he would not continue to question the matter of the class A misdemeanor, but it was still a subject of concern.

He asked if it is correct that as a consequence of SB 187 he would never hear about a justified ethics complaint that was filed against his staff member provided the staff took corrective action as ordered by the ethics committee.

SENATOR SEEKINS said that isn't the intent. The intent is that once there is probable cause and some action has been taken then the matter could become a public record. Confidentiality would be protected until probable cause is established. If the bill doesn't read that way now it will before it gets to the floor, he assured.

SENATOR ELTON expressed concern about the proposed change to allow an alternate member to vote without having attended all the hearings on the issue. He compared the situation to someone who didn't attend an entire trial, but was allowed to vote as a part of the jury. He asked if the sponsor had considered other ways such as requiring that the alternate hear all the arguments before voting.

SENATOR SEEKINS pointed out that there is no such restriction on the regular members.

SENATOR ELTON replied perhaps that needs corrective action.

SENATOR SEEKINS said he had no problem looking at the issue, but he wouldn't saddle an alternate with a higher requirement than is imposed on the regular members.

[5:34:21 PM](#)

SENATOR HUGGINS asked whether page 2, line 13-15 is to increase diversity in the ethics committee.

SENATOR SEEKINS said yes.

SENATOR HUGGINS offered the view that it's a good idea because others have recognized that it's a rather select group of people with a narrow band of interest.

SENATOR SEEKINS submitted that occurred with no evil intent. The nominees come from the chief justice so it's no surprise that three are attorneys and one is the wife of a noted justice.

SENATOR ELTON remarked it is understandable, but it doesn't speak to the qualifications of those who are selected. Referencing the prohibitions relating to employment, he asked whether people who might have a contract with the state would be prohibited from being on the ethics committee. For instance would a substitute teacher be excluded?

SENATOR SEEKINS replied a substitute teacher would qualify, but not someone with a contract.

SENATOR ELTON remarked it seems constraining to draw a bright line. It may be preferable to have the chief justice forward the names without restriction and then the legislature could exercise its judgment based on the individual's background.

SENATOR SEEKINS said there are already restrictions. It's common sense to say you have to look at diversity. Of the three attorneys that are currently on the committee, two have contracts with the state for Office of Public Advocacy. He'd like to see geographic and employment diversity and he has no problem reserving a slot, but he's nervous when you suggest more.

SENATOR HUGGINS referenced a previous discussion about his potato farmer from Palmer having little opportunity to serve on the ethics committee unless he knew the chief justice. If this gives him a better opportunity then I'm all for it, he said. He asked whether it does that.

SENATOR SEEKINS said that's the intent and the farmer has a better chance under this structure than the current structure.

SENATOR ELTON said he'd challenge the notion that the only people who get appointed know the chief justice, but that aside this doesn't get to that issue. This would just narrow the band of friends from which the chief justice could appoint.

5:43:30 PM

Senator Therriault rejoined the meeting.

SENATOR SEEKINS asserted that this is intended to broaden the perspective.

5:45:02 PM

VICE-CHAIR WAGONER gave Chair Therriault an update and returned the gavel.

CHAIR THERRIAUT asked Ms. Anderson to come forward.

JOYCE ANDERSON, Administrator, Select Committee on Legislative Ethics, stated that the committee had not reviewed the bill since it was just introduced. She could state support for issues that the committee had addressed in the past and she'd comment on those sections first.

The committee supports having an alternate member sit in when a regular member is unable to attend a complaint hearing because it would speed the process. If the alternate legislator or public member sits in, it would be beneficial for them to sit in throughout the complaint process.

The committee has also previously discussed and would support the provision for the people who are interviewed during an ethics complaint to fall under the confidentiality provision of the statute. The committee has always felt that is important.

She referenced advisory opinions addressed in Section 6 and said more discussions would ensue. Currently the person who requests an advisory opinion has the option to have the discussion in either an open or executive session. If confidentiality is waived, the discussion takes place in an open session. She supported the point that everyone named would have to waive confidentiality to have the discussion occur in an open session.

She disagreed with Senator Seekins proposal that advisory opinions remain confidential. All advisory opinions should be public, she said; that's what they're there for.

5:50:07 PM

SENATOR ELTON said he thought names were scrubbed when an advisory opinion is released.

MS. ANDERSON said that is correct.

SENATOR ELTON asked for verification that if this were to pass and a person who is not named refuses to waive confidentiality then that advisory opinion wouldn't be made public.

MS. ANDERSON replied that's the way she interprets the bill.

MS. ANDERSON directed attention to Section 1, which makes it a class A misdemeanor to discuss an ethics complaint or release information about an ethics complaint. She reported that the commission chair feels that could make the public hesitant to file a complaint. Therefore, she issued a word of caution in adopting that provision.

Section 1 of the bill says a person shall be charged with a class A misdemeanor, but it doesn't say the complaint would be dismissed. Under SB 187 the complaint would go forward and the commission supports that as an option for the committee.

5:53:39 PM

CHAIR THERRIault said under the current language if someone makes an allegation and delivers the information to the press at essentially the same time then the complaint is dismissed. The result is that the battle is fought in the press.

The sponsor could say whether he crafted the bill so that there is a penalty for hunting the headline. Certainly legitimate allegations should come in and proceed through the system, but the way the system is now it lends itself to abuse.

MS. ANDERSON agreed with the analysis but continued to urge caution. Senator Elton's example of discussing an issue with your spouse is a good case in point, she said.

SENATOR ELTON stated that he would be the last to argue that no previous ethics complaints were spurious and it wouldn't be hard to say that some of those complaints were politically motivated. However, the new provision in Section 1 doesn't get to the root of that issue, he said. Someone could go to the press regarding an alleged ethics violation and not actually file a complaint. They wouldn't be subject to the class A misdemeanor penalty unless they filed the complaint.

CHAIR THERRIAULT responded the press isn't interested in being used as a political tool. An alleged ethics violation would probably be treated differently than a pending ethics complaint.

SENATOR ELTON said information is transmitted in lots of different ways. Although he'd like to say that blogs and organization newsletters and such are just as responsible as the commercial press, he isn't sure that's the case.

CHAIR THERRIAULT stated that no one should be precluded from making his or her views known, but he believes that the professional press would verify information.

MS. ANDERSON said information about whether there was a complaint or not is not released.

CHAIR THERRIAULT asked if there were further comments.

MS. ANDERSON said she had comments on Sections 7 through 14, which relate to the actual complaint process.

She interprets the bill to mean that not all decisions from the ethics committee would be considered public. The only decisions that would be public would be those that went to a hearing or the ones that were forwarded to either the Senate or the House after probable cause was found. She noted that the sponsor said that isn't his intent and that he would make some changes.

It's been agreed that dismissal orders should not be public because that means that there wasn't probable cause. However, she said, the public should be aware when there is probable cause because it's an accountability issue. She noted that the sponsor talked about changing that part of the bill as well.

The way the bill is now, the hearing would be confidential, but as she discussed with the sponsor, the hearing should continue to be public because probable cause would have been established. It's like a grand jury that has found merit and is moving to the

next stage. The noted that the sponsor agreed to change that part of the bill.

She reiterated the sponsor's assertion that the section on the open meeting statute was an error and would be deleted.

The final section that was repealed related to public hearings. She didn't discuss that with the sponsor in detail, but she assumed that he would add it back because it deals with the fact that the hearing is public.

There were no questions.

[6:01:22 PM](#)

MERLE THOMPSON, Susitna Valley resident, aired the view that the Ethics Committee does a fine job, but there is a problem with the public trust. He suggested there is reason that the public feels the way it does.

He announced that he doesn't care for the secrecy provisions in the bill, but the real ethics problems center on conflicts of interest and how the legislature deals with them. That's where the bright lines are needed and they aren't there. When you have a conflict of interest it'd be a simple matter of recusing yourself, but it's not happening. That's why there's a public trust problem, he declared.

The right things aren't being addressed here, he said. It kind of reminds me of Solzhenitsyn's Gulag Archipelago ["The Gulag Archipelago 1918-1956"] and his beet top soup. "We're getting this weak ethical soup. A beet top soup for the people and the chunks of beets for the legislators and it doesn't seem right to me."

[6:06:02 PM](#)

CHAIR THERRIault said it would seem that he would have a problem with the grand jury system because there's nothing about it that is public.

MR. THOMPSON replied that isn't a direct parallel. As Aristotle said, "The office will show the man." He suggested that it would benefit legislators to feel that the public holds them to a higher standard.

CHAIR THERRIAULT said the ethics committee is acting as a grand jury and the fact that there is confidentiality until a decision is made isn't a problem with the general public.

MR. THOMPSON said he would beg to differ. Calling the previous ethics rule change a strike against open government, he asserted that the proposed bill takes it a step further.

[6:09:31 PM](#)

SENATOR WAGONER remarked he had four or five ethics complaints filed against him two years ago and every one was false. He took issue with the idea that unfounded ethics complaints that are filed for political gain should become public.

MR. THOMPSON responded he must not have been harmed by the process because he reads newspapers quite often he didn't hear anything about any of the ethics complaints.

SENATOR WAGONER said they weren't founded so they weren't made public. Had there been any substantial truth the public would have probably been informed. He reiterated Senator Therriault's argument that the ethics committee operates the same way as a grand jury. Unsubstantiated claims aren't made public because to do so would besmirch the individual's reputation.

MR. THOMPSON pressed the view that his reputation hadn't been damaged.

CHAIR THERRIAULT made the point that the reason that Senator Wagoner wasn't damaged is because the unfounded claims were dealt with in a confidential manner. He said he didn't understand what the argument would be to change that system.

MR. THOMPSON reported he didn't have any problem with how the system was working two years ago, but it was changed last year and this bill proposes to change it again. "We've had a plethora of ethical lapses from different branches of government in the last two years and I think that's what people are responding to." The changes that are being made aren't addressing the real problems, he declared.

[6:12:45 PM](#)

SENATOR HUGGINS commented there should be a disincentive to file complaints with no basis.

MR. THOMPSON said he didn't need to reiterate that he believes that there are ethical lapses that aren't being dealt with in a particularly good way. We seem to be taking it the other way, which is to put the accuser under more question than the accused.

SENATOR ELTON directed attention to the last section, which repeals open meetings and AS 24.60.170(m). He asked the sponsor to clarify whether the suggestion is to take both repealers out or just the one.

SENATOR SEEKINS replied one would be taken out because it was put in by mistake. The other would be put back in after some modification.

SENATOR ELTON asked for verification that AS 24.60.037(c), which addresses the caucus and political strategy would be taken out and AS 24.60.170(m) would be tweaked.

SENATOR SEEKINS replied the whole section on caucus would stay in the bill. It would be addressed in a manner that clarifies the areas of responsibility for the legislature and the committee.

[6:16:10 PM](#)

There were no further questions or testimony.

CHAIR THERRIAULT held SB 187 in committee.

**SB 127-EXEC. BRANCH ETHICS: FINANCIAL INTERESTS**

CHAIR GENE THERRIAULT announced SB 127 to be up for consideration.

[6:16:38 PM](#)

SENATOR HOLLIS FRENCH, Sponsor, described SB 127 as a straightforward attempt to clearly define a significant financial interest. When Mr. Bunde investigated former Attorney General Renkes in the KFx matter, he found there was ambiguity associated with determining significant financial interest because Alaska law doesn't provide a hard or fast number or percentage for that.

The bill defines financial interest on page 2. A financial holding is significant if it amounts to \$5,000 or 1% of the total value of the company stock, whichever is less.

He reviewed Section 1 and read the statutory definitions for personal and financial interests. That section contained the word "or" too many times, which made it too broad. He narrowed it to just the instances where your action has a conjectural effect.

Proposed Section 1(b)(2) is new and relates to personal interest. No money is involved; there are only those interests that are held without any potential for profit.

[6:20:44 PM](#)

CHAIR THERRIAULT said assuming he works gas pipeline issues and that the pipeline goes through, would he have to disclose if his Fairbanks property value skyrockets in proportion to all other Fairbanks property.

SENATOR FRENCH replied that wouldn't be a personal interest because property is a financial interest. Nevertheless, he opined that he would be absolved because the action has a conjectural effect. "You can posit a boom off of the gas pipeline, but it's not necessarily going to be true."

Section 1(b)(3) focuses on financial interest and subparagraphs (A)(B) and (C) lay out the following three criteria that must be met to for an insignificant financial interest to occur:

- A. You or an immediate family member must hold the interest. The current ethics statutes already adequately addresses how you are charged with knowledge of what your relatives may own in their stock portfolio.
- B. It has to involve an ownership that is source of income or from which a person receives or expects to receive a financial benefit. That's some sort of concrete financial relationship that will bring you money.
- C. The value is reset to less than \$5,000 or 1% of the total value of the business, whichever is less. Determining the amount is a balance, but it should be at an amount that would give the public confidence that decisions are being made with them in mind and not the public officer.

Finally, the bill broadens the definition of official action because current statute is ambiguous. As proposed, official

action would include just about anything that is done in the course of a workday as a state employee.

[6:24:52 PM](#)

CHAIR THERRIAULT asked how the \$5,000 compares to other states.

SENATOR FRENCH replied Idaho, Kentucky and three or four others have a limit similar to \$5,000.

SENATOR WAGONER asked if the public office disclosure statements don't require about the same information as (3)(A)(B) and (C) and would therefore already be available to the public.

SENATOR FRENCH responded there are two things going on there. The object of disclosure is to let folks know what you own. It doesn't get you out of an ethical conflict if you have money on the line. The other thing is that you as a public official don't make a decision that affects your investments.

CHAIR THERRIAULT posed the hypothetical situation of a Department of Law employee whose family owned a particular business and asked if that employee would have to avoid involvement with anything dealing with that type of business.

SENATOR FRENCH replied if the action that is taken would be more than conjectural then the answer would be yes. Assume that your family owns fishing permits in Kachemak Bay and you're an attorney for the Department of Natural Resources. If a regulator asks for a written opinion on fishing permits in Kachemak Bay you should send the work to the next attorney.

[6:27:32 PM](#)

CHAIR THERRIAULT noted there were no further questions. He asked Senator Seekins if he had SB 186, SB 187, and SB 127 noticed in the Judiciary Committee.

SENATOR SEEKINS said he thought so.

CHAIR THERRIAULT asked the committee members if they preferred to amend Senator Seekins bills in this committee or move them to Judiciary to make the changes.

SENATOR ELTON said his preference would always be to see the changes. He pointed out that he doesn't sit on Judiciary. The

sponsor has said he would change some sections in one of the bills but the committee doesn't know what those changes are.

CHAIR THERRIault asked Senator Seekins if he was close to having a committee substitute.

SENATOR SEEKINS said one difficulty is that the drafters are very busy. He said that Senator Elton or any other member would be welcome to join the Judiciary Committee and ask any questions, he said.

SENATOR ELTON expressed appreciation for the offer and said the unspoken point is that he wouldn't have a vote. These are substantive issues on bills that were introduced just a few days ago, he said.

SENATOR HUGGINS remarked he is on Judiciary, but the challenge is getting the fix.

SENATOR DAVIS suggested talking about moving the bills individually. SB 186 needs more change than the others.

SENATOR SEEKINS stated that the same concepts would be embodied in the final bill; it's just getting the right language to accommodate those concepts.

CHAIR THERRIault called a brief at ease from [6:32:53 PM](#) to [6:36:14 PM](#)

CHAIR THERRIault announced he would like to move the three bills as a package. He recessed the meeting to the call of the chair at [6:37:59 PM](#).

**CHAIR GENE THERRIault** reconvened the April 26, 2005 Senate State Affairs Standing Committee meeting at [8:11:49 PM](#) April 27, 2005. Present were Senators Elton, Wagoner, Huggins, and Chair Therriault.

**CSHB 127(FIN) AM-PFD:PEACE CORPS/OLYMPIAN/SANCTIONS**

CHAIR GENE THERRIault announced HB 127 to be up for consideration.

He stated that he discussed the legislation with the committee members and he made it clear to the sponsor that he does not support the bill. Nonetheless, she asked that it be moved to the

next committee and he was willing to consider that if the members were agreeable. There was no objection or debate.

[8:12:47 PM](#)

SENATOR THOMAS WAGONER motioned to report CSHB 127(FIN) AM and attached fiscal note from committee with individual recommendations.

CHAIR THERRIAULT announced that without objection the bill would move to the next committee of referral.

**SB 127-EXEC. BRANCH ETHICS: FINANCIAL INTERESTS**

[8:13:41 PM](#)

CHAIR GENE THERRIAULT announced SB 127 to be up for consideration.

He asked the sponsor to provide explanation for why he settled on the particular dollar amount.

[8:14:04 PM](#)

SENATOR HOLLIS FRENCH, Sponsor, explained that the basic idea is to promote the public trust. First, the lower the number the more likely it is that the public will view public official decisions as being in the public's interest rather than as an investment interest. Second, \$5,000 was selected because it is similar to what is used in other states. The third reason is that the median income for Alaskans is about \$35,000 and so \$5,000 represents over 10% of that annual earning. From the public's perspective, that's a lot of money.

CHAIR THERRIAULT restated his interest in passing the three ethics bills as a package and asked for a motion.

SENATOR WAGONER motioned to report SB 127 and attached fiscal notes from committee with individual recommendations.

CHAIR THERRIAULT announced that without objection the bill would move to the next committee of referral.

**SB 186-EXECUTIVE BRANCH ETHICS**

[8:16:11 PM](#)

CHAIR GENE THERRIAULT announced SB 186 to be up for consideration.

He moved the \F version committee substitute (CS) as the working document. There being no objection, it was so ordered.

[8:16:53 PM](#)

SENATOR SEEKINS reported the following:

Sections 1 and 2 had no changes.

Section 3 (f) talks about "immediate family" rather than "family" because is not with the extended family.

CHAIR THERRIAULT noted that the word "entity" was struck from Section 2 in several instances. He asked if the drafters made the suggestion.

SENATOR SEEKINS said that's correct. Business is defined as an entity so the term is redundant.

In Section 3 "business associate" is used instead of any term that is closely related to person. The definition is located in Section 19.

In Section 4 the terms, "or position" and "or a business associate" and "or by reason of the officer's position" were added to clarify that due to their position, someone may have access to information that should be confidential.

In Sections 5, 6 and 7 the words "or a business associate" replaces "closely associated person." That change in combination with the definition of "immediate family" should take care of the universe of people we're interested in, he said.

[8:20:11 PM](#)

SENATOR KIM ELTON questioned whether a "business associate" would encompass a smaller group because "a closely associated person" might include something in addition to a business associate.

SENATOR SEEKINS replied the idea is that the next-door neighbor or your fishing friend would not be included. Family, professional associations, and business associations are all covered.

In Section 8(b)(2)(A) the words " personal or" were deleted. The discussion is about financial interests only. In that same subparagraph "interest that gives" replaces "interests that give".

8:22:20 PM

SENATOR CHARLIE HUGGINS asked for an example of personal or financial interests that might be a potential violation.

SENATOR SEEKINS answered you could tell someone to sell their stock or withdraw from a partnership or sell a lodge. Divestiture is basically saying get rid of the conflicting interest.

Section 8(b)(2)(B) deals with putting the financial interest that may be a conflict into a blind trust.

CHAIR THERRIAULT noted that with the removal of the words "no direct" there would be no control at all.

SENATOR SEEKINS responded there would be no management control over that financial interest.

8:24:29 PM

SENATOR ELTON observed that the proposed language would have allowed former Attorney General Renkes to place his KFx stock in a blind trust or other financial structure over which he had no management authority. That would have satisfied the ethics law even though he didn't get rid of his conflict of interest. However, at some point he would have accrued benefit from that stock ownership.

SENATOR SEEKINS drew attention to page 3, lines 24-31 where it says there is a written determination regarding whether there was a violation. If the supervisor determines that a violation exists or will occur he or she would have two options The supervisor could reassign the employee's duties or direct the employee to place the investment in a blind trust over which he or she had no control.

CHAIR THERRIAULT added that there were two issues. One was the stock ownership and the other was the allegation that the former attorney general bought and sold the stock. Clearly buying and selling would no longer be an issue under the proposed language.

SENATOR ELTON expressed concern that that subparagraph (B) causes something to happen but it doesn't remove the perception that the public officer could benefit. Putting the stock in a blind trust places the public official one step away from the investment, but it doesn't remove the potential incentive to benefit the company in question.

[8:28:20 PM](#)

SENATOR SEEKINS restated his belief that leaving the decision to a supervisor is a legitimate option.

SENATOR ELTON questioned whether there wouldn't have been an unintended consequence of no public record whatsoever if former Attorney General Renkes had moved his investment into a blind trust. In that instance there was at least a public file showing his holdings in KFx, he said.

SENATOR SEEKINS pointed to the three options available to a supervisor in a similar circumstance: don't work on the particular project; sell the stock; put the stock into a management system over which the public employee has no control. He stressed that the supervisor would provide a written determination that would go in the file and to the attorney general.

SENATOR ELTON said his understanding is that a personnel file isn't open to the public so under this proposal he wasn't sure that there would be a document that could be disclosed to the public.

SENATOR SEEKINS clarified that the proposed language calls for the file to be released to the public employee and to the attorney general.

CHAIR THERRIault asked the sponsor to continue.

SENATOR SEEKINS directed attention to Section 9. It was discussed conceptually during the previous hearing and relates to an allegation of a violation by the governor, lieutenant governor, or attorney general. In the event of an allegation, the personnel board would appoint an independent counsel with full power to issue and enforce subpoenas. The investigator would prepare a written report outlining the findings and giving a conclusion.

If an allegation were made against the governor or the lieutenant governor, then the attorney general would review the conclusion and make the final determination as to whether the complaint would go forward. Similarly, the governor would make the final determination for an allegation made against the attorney general. For the first time in our statutes, a procedure is set forth to address a complaint at that high level, he said.

SENATOR ELTON asked for verification that nothing in Section 9 precludes anyone else from filing a complaint.

[8:36:57 PM](#)

SENATOR SEEKINS said no; this isn't the process for filing a complaint it's the process for determining whether or not there was a violation that provided basis for a complaint.

[8:37:42 PM](#)

Section 10 would amend AS 39.52.240(a). It states that Section 10 doesn't apply to allegations investigated in proposed Section 9.

Section 11 would amend AS 39.52.310(a) to include AS 39.52.230(b).

Section 12 would amend AS 39.52.335(a). In the event that a complaint was dismissed, the subject of the complaint would receive a copy of the summary of the matter. He noted that at any time the parties could stipulate that a complaint is public.

Section 13 would amend AS 39.52.335(f). The personnel board may issue a confidential report on the complaint to the subject of the complaint, the complainant and the attorney general.

SENATOR ELTON asked why the language about the superior court was stricken from Section 12.

SENATOR SEEKINS answered the matter would no longer go there; he thought it applied to the appeal process.

CHAIR THERRIault announced an at-ease from [8:40:23 PM](#) to [8:42:29 PM](#) to review the statute.

SENATOR ELTON stated that the superior court would be precluded from making the matter public.

SENATOR SEEKINS disagreed. Subsection (h) says that the court can order the matter be made public. Deleting paragraph (2) just precludes it at this particular section, he said.

[8:43:46 PM](#)

Section 13 amends AS 39.52.335(f). It says that the confidential report may be issued to the attorney general, the subject of the complaint, and the complainant. The report remains confidential if it is dismissed.

Section 14 amends AS 39.52.340(a). The information an independent counsel might discover would be confidential and the information about a filing or intention to file a complaint could not be disclosed. He clarified that documents from state agencies don't become secret just because they were requested in an investigation.

Section 15 amends AS 39.52.380(a) to include four additional statutory references. It expands on the power given to the independent counsel.

Section 16 amends AS 39.52.410(a) and relates to the length of time investments would remain in a blind trust. He noted that some language was inadvertently omitted. He suggested that it could be reinserted in the next committee of referral.

Section 17 amends AS 39.52.960(9) by adding "an interest held by a public employee with a business associate" to the definition of "financial interest."

Section 18 amends AS 39.52.960(11) to further clarify and narrow who is included as an immediate family member.

[8:48:51 PM](#)

SENATOR ELTON suggested that removing grandparent, aunt or uncle might be going too far.

SENATOR SEEKINS argued that given all the step permutations of the current American family the net would be cast too far.

SENATOR ELTON said he wasn't suggesting expanding the number of people that are covered, but some previous legislature made a decision that it is appropriate to include grandparent, aunt, and uncle in the definition. Unless the existing language has

caused a problem, he didn't believe the scope should be narrowed. Also, there's the provision in law that says you're not complicit in a conflict of interest if you didn't know about the financial arrangement.

SENATOR SEEKINS responded you would have to prove that you didn't know.

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Section 19 amends AS 39.52.960 by adding new paragraphs defining "business associate" and "household."

Section 20 repeals AS 39.52.335(g) and AS 39.52.335(h).

SENATOR ELTON directed attention to Section 12 and said the previous discussion included the assurance that AS 30.52.335(h) was deleted at that point because it was covered elsewhere. He noted that Section 20 repeals AS 30.52.335(h) so the net is that there would be no appeal to the superior court to make something public.

SENATOR SEEKINS said he didn't notice that but it does take it out. It says that if the complaint is dismissed or resolved then it's the end of the line.

CHAIR THERRIault asked if there was a particular reason to strike that subsection. Because (h) was permissive, a person could go to the court and ask for release of the information.

SENATOR SEEKINS answered he didn't believe so. He said he had no problem if someone wanted to go to the court to get the information as long as it was clear that there was a substantial concern to the public interest.

SENATOR ELTON observed that those protections would be supplied by the superior court just as they are now.

SENATOR SEEKINS agreed to review the matter. The instructions to the drafter were that once the personnel board finds that there was no violation then the matter is closed.

CHAIR THERRIault brought up the comparison between the personnel board and a grand jury proceeding.

SENATOR SEEKINS interjected there is neither an appeal process for nor a public disclosure of a grand jury finding of no basis for an indictment.

CHAIR THERRIault asked Senator Elton what might trigger the court to release the information if the matter had been found to have no basis.

SENATOR ELTON responded that would presume fact situations that have not yet occurred, but it appears as though the proposal changes parts of law in a way that may not be necessary. It's perfectly appropriate for any Alaskan to be curious about the conduct of a public officer and it might be in the public's interest for a dismissal to be part of the public record.

Given the nature of the repealer, he asked what the provision is in subsection (g).

CHAIR THERRIault read the statute.

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SENATOR SEEKINS read subsection (h) and stated that the proposed change would keep a matter confidential when a complaint has been dismissed. He argued that, "We're just getting rid of a paragraph that says that if it wasn't made public but the personnel board thought it should, then somebody could sue to make it public. "

SENATOR WAGONER drew a parallel between a baseless complaint and a mistake on a credit report.

SENATOR SEEKINS commented once information is on the Web it's there forever.

SENATOR ELTON motioned to strike Section 20. He explained his reasoning is that under subsection (g) the personnel board is given the opportunity to use discretion in issuing a report that is scrubbed of identifying information. Repealing those two subsections is taking away opportunities that could benefit the subject of the complaint and other state employees who may want to know what decisions the board has made.

SENATOR SEEKINS said he didn't object to striking (g) from proposed Section 20, but (h) has no reason for remaining in law.

Once a person is found innocent of the charges, the matter is dismissed and the facts of the matter would be kept confidential.

CHAIR THERRIAULT announced he would divide the question. Amendment 1a would ask whether AS 39.52.335(g) should be struck from Section 20. Amendment 1b would ask whether AS 39.52.335(h) should be struck from Section 20.

SENATOR ELTON moved Amendment 1a.

CHAIR THERRIAULT found there was no objection and Amendment 1a passed.

SENATOR ELTON moved Amendment 1b.

He stated that the discussion has centered on the assumption that the only disposition of a complaint is a dismissal and he couldn't see that. Subsection (h) would allow the personnel board to recommend that the matter be made public for a number of reasons. If a person is found innocent it might be helpful for the public to know that. Since it hasn't been demonstrated that the existing statutes are creating a problem, he said he wasn't comfortable making further change.

SENATOR SEEKINS emphasized that if probable cause were found then it would become a public matter.

SENATOR ELTON directed attention to (h)(1). It talks about dismissal or resolution of the complaint, but not dismissal alone.

SENATOR SEEKINS responded if there was evidence that the dismissal was clearly contrary to the requirements of this chapter then a person would have a right to bring an action under the common law to retry the issue. But not for disclosure, he said

CHAIR THERRIAULT found there was no further debate on Amendment 1b and asked for a roll call vote.

Amendment 1(b) failed 1 to 3 with Senator Elton voting yea and Senators Wagoner, Huggins and Therriault voting nay.

CHAIR THERRIAULT found there were no further questions or amendments on SB 186. He asked for the will of the committee.

SENATOR WAGONER motioned to report CSSB 186 (STA), version F as amended, and attached fiscal notes from committee with individual recommendations.

SENATOR ELTON objected. He stated that at the beginning the task was simply to establish a bright line to define a substantial interest. SB 186 goes far beyond that point. It repeals certain provisions and makes some information less public. He said he is more comfortable with a bill that sets a dollar amount to define substantial interest. He's uncomfortable going further if it hasn't been demonstrated that the existing statutes are creating a problem.

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CHAIR THERRIault called for a roll call vote.

The motion passed 3 to 1 with Senators Huggins, Wagoner and Chair Therriault voting yea and Senator Elton voting nay. CSSB 186(STA) moved to the next committee of referral.

#### **SB 187-LEGISLATIVE ETHICS/MEETINGS**

CHAIR GENE THERRIault announced SB 187 to be up for consideration.

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SENATOR RALPH SEEKINS, sponsor, reviewed the proposed changes.

Section 2 is the same as the original version and restates a truism that exists.

Section 3 specifically names the open meetings guidelines.

Section 4 follows the commonsense guideline of not loading the Select Committee on Legislative Ethics with people who are involved in government.

Section 5 is unchanged from the original version.

CHAIR THERRIault moved version F as the working document. There was no objection.

SENATOR THOMAS WAGONER read Section 4(c) and asked about people who are members of no political party.

SENATOR SEEKINS questioned whether non-party isn't in fact a political party. That point might need to be addressed at some point, he said.

SENATOR WAGONER said he didn't believe that NP [nonpartisan] is recognized as a political party in Alaska yet a lot of people are registered that way.

SENATOR SEEKINS opined that as currently written all of them could technically be nonparty.

SENATOR WAGONER suggested that it be addressed.

SENATOR SEEKINS clarified that the change in Section 5 is to allow an alternate member to attend all committee and subcommittee meetings and hearings rather than just hearings.

SENATOR ELTON raised the point that there is a bright line prohibiting Senate members from going to House subcommittee meetings and vice versa. If Section 5 were interpreted strictly, an alternate legislator could go to either.

CHAIR THERRIAULT pointed out the next line says the alternate may attend to the same extent as the regular member.

SENATOR SEEKINS said it was deliberately crafted so that the alternate gets no more than the regular legislative member.

SENATOR ELTON agreed.

SENATOR SEEKINS said Section 6 relates to requesting an opinion. It clarifies that everyone has the same opportunity to protect his or her reputation.

SENATOR ELTON informed the committee that when the review was complete he would motion to strike the new language in Section 6. He noted that advisory opinions are scrubbed of identifying characteristics and they provide information that might be helpful in guiding behavior. The addition of the proposed language would constrain access to advisory opinions.

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SENATOR SEEKINS disagreed.

SENATOR ELTON read the proposed language and made the point that the requester could say they didn't want the advisory opinion to be released.

CHAIR THERRIAULT asked Ms. Anderson to come forward.

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JOYCE ANDERSON, Administrator, Select Committee on Legislative Ethics, read AS 24.60.150(a)(2).

SENATOR SEEKINS asserted that the proposed language in Section 6 doesn't disallow sanitized versions.

CHAIR THERRIAULT reread the provision and said it's a statutory duty to the committee.

MS. ANDERSON offered the opinion that the proposed language is a bit confusing if you don't read the other section. She suggested changing the language so it doesn't look as though the advisory opinion remains confidential and isn't published.

CHAIR THERRIAULT asked if making reference to AS 24.60.150(a)(2) would suffice.

SENATOR SEEKINS argued that there's a difference between the sections. The proposed language says the information about the opinion is confidential while the other section talks about publishing semi-annual summaries of decisions and advisory opinions with sufficient deletions in the summaries to prevent disclosure of a person's identity.

CHAIR THERRIAULT asked Senator Elton if his concern would be alleviated if it was made clear that AS 24.60.150(a)(2) remained operative and that the sanitized versions are still published.

SENATOR ELTON replied the language in the other section speaks only to summaries and not to opinions. It's always been the committee's practice to release a sanitized opinion not a summary of the opinion. The documents aren't one and the same.

MS. ANDERSON agreed with Senator Elton; public decisions that are issued are not summarized. He's also correct that advisory opinions are sanitized of information when drafted. Summaries have never been published; it's the public decision and advisory opinion itself that is published.

SENATOR SEEKINS maintained that an opinion that has been sanitized is a summary of the opinion. Nonetheless, he said he was willing to look at the issue to make sure that a sanitized version of an opinion isn't precluded.

Sections 7 through 14 are to ensure that confidentiality is maintained until a finding of probable cause. A finding that only recommends corrective action shouldn't be made public.

MS. ANDERSON explained that since the ethics committee was established in 1992, 57 complaints have been filed. Probable cause was found in 10 cases; a mix of probable cause and dismissed allegations was found in 6 cases; and 41 cases were dismissed entirely.

When probable cause was established, corrective action was recommended. That included: writing a letter of apology to the House or Senate, developing office policy regarding use of staff time, attending training sessions, removing private business from legislative setting.

Since 1992 there have been three public hearings and just one complaint has resulted in the imposition of sanctions. She said that under the proposed policy only 4 decisions would have been issued from 1992 to the present. All others would not have been issued.

SENATOR SEEKINS asked if that was out of 10.

MS. ANDERSON clarified that there were 16 decisions issued. Decisions were also issued for those that didn't have probable cause because current statute says the cases are public if the complaint goes to an investigative stage. If not, the complaint is completely dismissed.

MS ANDERSON said she would comment further following the presentation.

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SENATOR SEEKINS read AS 24.60.150(a)(2) and said that's how the information comes down.

He asked for an amendment to delete lines 20-25 on page 7. His intention is to pursue every complaint, but to hold responsible those people who break confidentiality.

CHAIR THERRIAULT recapped previous discussion about what currently happens when someone brings an action to generate a headline. If the person discloses the action, the complaint is dismissed.

SENATOR SEEKINS argued that the complaint isn't really dismissed.

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CHAIR THERRIAULT asked for verification that if the language is stricken then any complaint, whether it is disclosed or not, goes forward and the discloser is punished.

SENATOR SEEKINS said yes; the penalty is for breaking confidentiality.

CHAIR THERRIAULT asked about the change in Section 15, page 8, line 27. The words "or obtained" were added.

SENATOR SEEKINS explained that the addition is to broaden the requirements.

SENATOR ELTON asked if there is a difference between documents filed with the committee and documents filed by the committee.

SENATOR SEEKINS said the intent is to include information obtained rather than just disclosed.

SENATOR ELTON added, "Or filed."

SENATOR SEEKINS responded filed doesn't cover it because there are disclosure processes. It's a term of art in the legal profession, he said.

CHAIR THERRIAULT provided an example and suggested the addition is more inclusive.

SENATOR SEEKINS remarked it's better to be redundant than to have a loophole.

SENATOR ELTON noted that subsection (s) in Section 15 is new and asked if a person who said they intended to file a complaint would be subject to the penalty.

SENATOR SEEKINS replied as long as a person didn't file the complaint they wouldn't be subject to the penalty.

SENATOR ELTON pointed out that it says filing of or intention to file. If a person disclosed an intention to file a complaint and hasn't filed, he asked if that person would be subject to a class A misdemeanor.

SENATOR SEEKINS said he didn't believe it would be interpreted that way. The intention is if someone intends to file a complaint and subsequently files it. He had no problem with adding language about subsequently filing the complaint.

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SENATOR ELTON said that would clarify and narrow the ability to charge someone with a class A misdemeanor. I'm comfortable with the addition, he said. I'm not saying I'm comfortable with Section 15.

He suggested the committee consider inserting "that is subsequently filed" after the word "complaint" on line 17.

SENATOR SEEKINS said he had no objection.

SENATOR ELTON moved the amendment.

CHAIR THERRIAULT suggested it be a conceptual amendment to give the drafter some latitude.

CHAIR THERRIAULT found no objection to conceptual Amendment 1.

He noted that the repealers were dropped from the original version.

SENATOR SEEKINS agreed saying they shouldn't have been there.

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SENATOR ELTON directed attention to Section 10 and asked if his interpretation was correct that under this provision he would never know that his staff member committed an ethics violation if he or she completed the recommended corrective action. An ethics violation is something that is fairly important for an employer to know, he asserted.

SENATOR SEEKINS said it's correct that the employer wouldn't know unless the employee chose to disclose the violation.

SENATOR ELTON argued that the employing entity should know if a violation occurred and was confirmed by the ethics committee.

SENATOR SEEKINS suggested that any of the legislators present would know about a staff member's ethics violation long before the matter was resolved.

SENATOR ELTON responded if that's true then someone committed a class A misdemeanor by leaking the information.

SENATOR SEEKINS pointed out that the person who is charged has the right to disclose the information at any time to anyone so he didn't see how that could happen.

SENATOR ELTON replied he could see how it could happen very easily. The person who was charged might not want the employer to know about the violation, but someone who was interviewed might.

SENATOR SEEKINS said the employer would have a difficult decision if someone other than the violator disclosed the information.

CHAIR THERRIAULT made the point that under the grand jury system an employer doesn't have a right to know about any charges that were dismissed. As a legislator, should I have a higher duty of a right to know about an allegation brought against a staff member than a private business employer, he asked.

SENATOR ELTON said, absolutely, it's different. The Legislative Ethics Law governs the behavior of legislators and staff and I'd want to know if a staff member of mine violated the law and agreed to the corrective action. That violation occurred in a public trust that we both swore to uphold. Legislators cannot divorce themselves from what their staff members do in the office. Their actions reflect back on the legislators who hired them.

Using the example of a criminal complaint that went to a grand jury and was dismissed isn't the same issue, he said. In this instance the person could be guilty and you still wouldn't know unless the employee tells you about it. "We have a duty as legislators to make sure our staff follows the law," he said.

CHAIR THERRIAULT raised a question about a private employer's right to know an employee's business.

SENATOR SEEKINS announced that he wanted to correct the record because his employees haven't taken an oath of office.

It's a delicate balance, he said. If the ethics committee requires a corrective action, should that be a matter of public record or should there be a level of confidentiality? That's the decision that has to be made, but employees working for legislators don't have a greater responsibility than any other employee working anywhere else in the state of Alaska, he asserted.

SENATOR HUGGINS asked Ms. Anderson to comment on her experience.

MS. ANDERSON said a point she'd like to make is that even though there was corrective action, the person was found with probable cause. That's similar to a guilty verdict even though there was corrective action. Looking back to 1992 she didn't see any cases that didn't have corrective action because what the person was doing was violating the ethics code. There was a finding of probable cause in all instances.

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SENATOR ELTON said if a court orders corrective action there is a public record and that's the way it should be near. It's ironic that the proposal is to go beyond that. Not only would the matter be private, the employer wouldn't have any knowledge of an ethics violation. As an employer I'd want to know so I could make a judgment on whether or not that's behavior that I want to tolerate or make a corrective action beyond what the ethics committee suggested, he said.

SENATOR SEEKINS disputed the statement that his employees are reflective of him. "Their actions may reflect on me. They may affect my reputation by their actions, but they certainly aren't reflective of me," he said.

CHAIR THERRIault asked if that's the only impact of Section 10.

SENATOR SEEKINS interjected if the legislature wanted a minor infraction that has a minor correction to be public knowledge then he would go along. He said he was just trying to err on the side of privacy and not to make people criminals.

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CHAIR THERRIAULT asked Ms. Anderson to comment on his comparison to the grand jury and that if charges were brought then the matter would be public.

SENATOR SEEKINS interjected to say that he would agree to a conceptual amendment that says that the line of confidentiality ends at probable cause rather than at the point of corrective action.

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CHAIR THERRIAULT asked if that would be accomplished by deleting Section 10.

SENATOR ELTON noted the new language on lines 22 through 26.

MS. ANDERSON read subsection (m) and said that perhaps Senator Seekins didn't realize that was reinserted.

SENATOR SEEKINS said it was put back in because it needed to be modified rather than deleted. He had no problem with a conceptual amendment so that once probable cause is established the matter would become public.

MS. ANDERSON stated that by reinserting (m) that is accomplished.

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CHAIR THERRIAULT noted that Senator Seekins suggested deleting the language on page 7, lines 20-25.

SENATOR SEEKINS agreed and said his intent is to prosecute every allegation of a violation of the ethics act to a determination of whether or not there was probable cause.

CHAIR THERRIAULT moved to strike language on page 7, lines 20 through 25 as Amendment 2.

SENATOR ELTON questioned whether the net effect is that a complaint doesn't need to be dismissed if confidentiality is broken.

SENATOR SEEKINS said yes.

SENATOR ELTON removed his objection if it was implied that he had one.

CHAIR THERRIAULT found there was no objection to Amendment 2.

Finding no further questions or suggested amendments he asked for the will of the committee.

SENATOR WAGONER motioned to report CSSB 187(STA) and attached fiscal notes from committee with individual recommendations.

SENATOR ELTON objected and stated that his objection centers on the class A misdemeanor penalty for any sort of disclosure. That sets up a situation in which I couldn't tell my wife if a complaint is filed against me, he said.

CHAIR THERRIAULT asked if his concern relates to the severity of the sanction or the fact that there's a sanction at all.

SENATOR ELTON replied a sanction was adopted just last year to address this issue; the sanction was dismissal. Although the complaint is dismissed, the ethics committee had the option of re-filing the complaint. Certainly if the allegation is of a serious nature an investigation should go forward because the bad act of a complainant shouldn't allow somebody to skate.

Having served on the ethics committee he said he believes that some complaints have been filed by bad actors. However, because the press and the committee acted in a responsible manner in those cases, neither political careers nor reputations were damaged.

Although it's hard to quantify or prove, the bill provides a disincentive to filing a complaint. For instance a person who discusses an issue with someone and subsequently files a complaint would find that they had broken the law.

SENATOR SEEKINS responded, "This same statute, basically, came from Oklahoma." This is a serious matter and we need to do this, he said.

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SENATOR ELTON said a person wouldn't know that they broke the law until they file the complaint and are told. Further, he said, it's not fair to keep using the grand jury example. There are all sorts of reasons that someone might end up in court and the grand jury example covers just a portion of the fact situations that someone with a legitimate complaint might face.

CHAIR THERRIAULT pointed out that all other matters would be civil.

SENATOR ELTON responded they're civil matters that could cost a lot more than \$10,000.

CHAIR THERRIAULT said if the state is bringing the charge then it's through the grand jury process.

SENATOR ELTON replied it might not be the state bringing the charge. It could be you or me or anybody. It's not just the state that files complaints with the ethics committee.

SENATOR SEEKINS drew on his experience from serving on the Judiciary Committee and said that mensrea is inferred in a criminal complaint. A person has to have knowingly disclosed.

CHAIR THERRIAULT called for a roll call vote on the motion to move the bill from committee. The motion passed 3 to 1 with Senators Wagoner, Huggins, and Therriault voting yea and Senator Elton voting nay.

CSSB 187(STA) moved to the next committee of referral.

There being no further business to come before the committee, Chair Therriault adjourned the meeting at [10:10:05 PM](#).