

**ALASKA STATE LEGISLATURE**  
**HOUSE JUDICIARY STANDING COMMITTEE**

March 21, 2007

1:11 p.m.

**MEMBERS PRESENT**

Representative Jay Ramras, Chair  
Representative Nancy Dahlstrom, Vice Chair  
Representative John Coghill  
Representative Bob Lynn  
Representative Ralph Samuels  
Representative Max Gruenberg  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 109

"An Act relating to the requirement for candidates, groups, legislators, public officials, and other persons to submit reports electronically to the Alaska Public Offices Commission; relating to disclosures by legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and certain candidates for public office concerning services performed for compensation and concerning certain income, gifts, and other financial matters; requiring legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and municipal officers to make certain financial disclosures when they leave office; relating to insignificant ownership interest in a business and to gifts from lobbyists for purposes of the Alaska Executive Branch Ethics Act; relating to certain restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 109

SHORT TITLE: DISCLOSURES & ETHICS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/25/07 (H) READ THE FIRST TIME - REFERRALS  
 01/25/07 (H) STA, JUD  
 01/30/07 (H) STA AT 8:00 AM CAPITOL 106  
 01/30/07 (H) Heard & Held  
 01/30/07 (H) MINUTE(STA)  
 02/03/07 (H) STA AT 10:00 AM SPEAKER'S CHAMBER  
 02/13/07 (H) STA AT 8:00 AM CAPITOL 106  
 02/13/07 (H) <Postponed Pending Subcommittee Report>  
 02/15/07 (H) STA AT 8:00 AM CAPITOL 106  
 02/15/07 (H) <Postponed Pending Subcommittee Report>  
 02/20/07 (H) STA AT 8:00 AM CAPITOL 106  
 02/20/07 (H) <Postponed Pending Subcommittee Report>  
 02/22/07 (H) STA AT 8:00 AM CAPITOL 106  
 02/22/07 (H) Heard & Held  
 02/22/07 (H) MINUTE(STA)  
 02/27/07 (H) STA AT 8:00 AM CAPITOL 106  
 02/27/07 (H) Heard & Held  
 02/27/07 (H) MINUTE(STA)  
 03/01/07 (H) STA AT 8:00 AM CAPITOL 106  
 03/01/07 (H) Heard & Held  
 03/01/07 (H) MINUTE(STA)  
 03/03/07 (H) STA AT 10:00 AM CAPITOL 106  
 03/03/07 (H) Moved CSHB 109(STA) Out of Committee  
 03/03/07 (H) MINUTE(STA)  
 03/07/07 (H) STA RPT CS(STA) NT 3DP 1NR 3AM  
 03/07/07 (H) DP: ROSES, DOLL, LYNN  
 03/07/07 (H) NR: JOHANSEN  
 03/07/07 (H) AM: JOHNSON, COGHILL, GRUENBERG  
 03/19/07 (H) JUD AT 1:00 PM CAPITOL 120  
 03/19/07 (H) Heard & Held  
 03/19/07 (H) MINUTE(JUD)  
 03/20/07 (H) JUD AT 1:00 PM CAPITOL 120  
 03/20/07 (H) Heard & Held  
 03/20/07 (H) MINUTE(JUD)  
 03/21/07 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

REPRESENTATIVE MARK NEUMAN  
 Alaska State Legislature  
 Juneau, Alaska

POSITION STATEMENT: During hearing of HB 109, expressed concerns regarding the reporting requirements for business transactions.

BROOKE MILES, Director

Alaska Public Offices Commission (APOC)  
Department of Administration (DOA)  
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 109, expressed concerns.

DAVID JONES, Senior Assistant Attorney General  
Opinions, Appeals, & Ethics  
Civil Division (Anchorage)  
Department of Law (DOL)  
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 109, answered questions.

JOYCE ANDERSON, Ethics Committee Administrator  
Select Committee on Legislative Ethics  
Alaska State Legislature  
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 109, answered questions.

HEIDI DRYGAS, General Counsel  
Public Employees Local 71  
Alaska District Council of Laborers  
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 109, answered questions.

#### **ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at [1:11:38 PM](#). Representatives Ramras, Dahlstrom, Coghill, Lynn, Samuels, and Gruenberg were present at the call to order. Representative Holmes arrived as the meeting was in progress.

#### HB 109 - DISCLOSURES & ETHICS

[1:12:00 PM](#)

CHAIR RAMRAS announced that the only order of business would be HOUSE BILL NO. 109, "An Act relating to the requirement for candidates, groups, legislators, public officials, and other persons to submit reports electronically to the Alaska Public Offices Commission; relating to disclosures by legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and certain candidates

for public office concerning services performed for compensation and concerning certain income, gifts, and other financial matters; requiring legislators, public members of the Select Committee on Legislative Ethics, legislative directors, public officials, and municipal officers to make certain financial disclosures when they leave office; relating to insignificant ownership interest in a business and to gifts from lobbyists for purposes of the Alaska Executive Branch Ethics Act; relating to certain restrictions on employment after leaving state service for purposes of the Alaska Executive Branch Ethics Act; and providing for an effective date." [Before the committee was CSHB 109(STA), as amended.]

CHAIR RAMRAS said that he would begin the meeting with comments from the public.

REPRESENTATIVE GRUENBERG noted that the committee has Ms. Drygas's written testimony to which a draft proposed amendment is attached.

REPRESENTATIVE LYNN mentioned that he has an amendment to address Ms. Drygas's concerns that he would speak to at the appropriate time.

[1:16:06 PM](#)

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, pointed out that Alaska's constitution requires a citizen-based legislature, and thus he and Ms. Miles tried to ensure that there were no roadblocks to that. Representative Neuman expressed concern with reporting transactions with individual clients ordering his custom-made furniture because he has to report the client's name, address, what was built, and the cost of the item. In fact, some clients have relayed to him that they'd prefer not to do business with him because of the reporting requirements. Furthermore, the reporting requirements allow his competitors to know what he charges. He opined that Alaskans have an implied right to privacy. He suggested that the bill be altered to maintain the current requirements to report "the name, address, description of service, and amount paid for their services" of any business transaction but specify that the aforementioned would only be required for transactions "with any person or business with substantial political interest within the state of Alaska." Such a change, he opined, will ensure that there is a citizen-based legislature without impairing a legislator's business.

1:19:10 PM

BROOKE MILES, Director, Alaska Public Offices Commission (APOC), Department of Administration (DOA), opined that one of the most important policy issues to come before the legislature with disclosure laws is an individual's right to privacy compared to the public's right to know everything about its legislators. Ms. Miles stated her agreement with Representative Neuman regarding not wanting to place obstacles before anyone interested in being a part of the legislature. She said she could understand that all sources of income that have any relationship with state government activities should be reported. However, she expressed concern with Representative Neuman's suggested change to only report those sources [with a substantial political interest within the state] because it moves in the opposite direction of HB 109, which is to establish more disclosure.

MS. MILES pointed out that the APOC does have an exemption process for those filing financial disclosure reports under the legislative ethics Law, which is specific with respect to medical procedures and the legal profession but [not very specific] with regard to other business enterprises. Therefore, she suggested that it might be more appropriate for the APOC to review the concerns of the business community in order to possibly propose a change that would protect the privacy rights of customers, and of the legislator with respect to a disclosure that could result in losing trade secrets.

1:22:39 PM

CHAIR RAMRAS relayed that he is comfortable with the legislative ethics Law and the APOC requirement regarding the disclosure of loans. He suggested developing language that would address Representative Neuman's concerns while protecting others who want to disclose what's necessary so that they don't appear to be engaging in unethical conduct.

REPRESENTATIVE LYNN questioned whether an artist disclosing the cost of a painting would hurt that artist's business when he/she produces the next painting.

REPRESENTATIVE NEUMAN said that he and Ms. Miles spoke of various professions such as artists, architects, and mechanical engineers. Representative Neuman opined that legislators know those who have a substantial political interest with the state. If there's any question as to whether an individual has a

political interest, legislators can call the APOC to find out. Therefore, he said that it should be left to those who know - the APOC. Representative Neuman then reiterated his belief that legislators should report anything dealing with those who have a substantial political interest.

REPRESENTATIVE DAHLSTROM relayed her understanding that under Representative Neuman's suggested conceptual amendment, whatever [is reported] would go to the APOC, which would make the decision regarding [publication of the disclosure].

REPRESENTATIVE NEUMAN replied yes, adding that certain statutory language would be necessary to guide the APOC.

CHAIR RAMRAS closed public testimony for today's meeting. He suggested that Ms. Miles work with his staff to develop Representative Neuman's suggestion into an amendment to be considered tomorrow.

[1:31:46 PM](#)

CHAIR RAMRAS then announced that the committee would turn its attention to proposed amendments.

REPRESENTATIVE COGHILL moved to take Amendment 9 off the table. There being no objection, Amendment 9 was taken off the table.

REPRESENTATIVE COGHILL made a motion to adopt Amendment 9, which read [original punctuation provided]:

Page 21, line 21:  
Delete "\$5,000"  
Insert "\$1,000"

Page 21, line 31:  
Delete "if the income was earned by the hour,"

Page 22, line 1, following "worked":  
Insert "to earn the income"

Page 22, line 10:  
Delete "\$5,000"  
Insert "\$1,000"

Page 22, line 17:  
Delete "\$5,000"  
Insert "\$1,000"

Page 22, line 20:  
Delete "\$5,000"  
Insert "\$1,000"

Page 22, line 24:  
Delete "\$5,000"  
Insert "\$1,000"

Page 22, line 27:  
Delete "\$5,000"  
Insert "\$1,000"

REPRESENTATIVE GRUENBERG objected for discussion purposes.

REPRESENTATIVE COGHILL informed the committee that the administration feels strongly about the reporting dollar amounts. He said the question is at what point does it become too difficult to comply with and become more burdensome than it is valuable for the public to know a particular thing.

[1:34:39 PM](#)

DAVID JONES, Senior Assistant Attorney General, Opinions, Appeals, & Ethics, Civil Division (Anchorage), Department of Law (DOL), said that any time additional disclosure is required or the restrictions on activities of public officials is ratcheted [up], there is a risk that folks will be discouraged from accepting positions in public service. There is constantly a balancing act between serving the public's interest in disclosure and ensuring that public representatives are acting ethically, and the ability to recruit and retain competent individuals for state service. He relayed that the DOL believes that a \$1,000 threshold is appropriate for several reasons. First, by initiative, Alaska voters in August 2006 indicated that \$1,000 was the appropriate disclosure amount regarding a legislator's income. Therefore, if it's the appropriate level for legislators, then it should also be the appropriate level for other public officials. In addition, to most folks, \$1,000 is a good amount of money.

MR. JONES said that the other aspect of Amendment 9 is that it would require disclosure, in all circumstances, of the number of hours worked to earn income over \$1,000. As currently written, the legislation would require disclosure of the number of hours worked only if the money was earned on an hourly basis. However, this wouldn't reach "the sweet deal." For example, an

individual working for the executive branch has a contract with someone for \$50,000 - yet that individual isn't being paid on an hourly basis - and that individual only works one hour. If the public doesn't know that, it doesn't understand that it's a "sweet deal" and that it's with someone expecting something special from that individual. By requiring disclosure of hours in all circumstances, it will help assure the public that these "sweet deals" aren't occurring, he opined.

[1:37:30 PM](#)

REPRESENTATIVE GRUENBERG maintained his objection.

REPRESENTATIVE COGHILL pointed out that Amendment 9 also pertains to transactions as well as earned income, and asked Mr. Jones to review Section 31, subsection (b)(2), (4), and (5).

MR. JONES clarified that the \$1,000 threshold would apply to income earned, trust or fiduciary relations, and loans or loan guarantees.

REPRESENTATIVE COGHILL inquired as to what would be required for credit card expenditures and other lines of credit.

MR. JONES offered his understanding that it wouldn't apply to a credit card, but would to a credit line unless the credit line was through a credit card.

MS. MILES clarified that a line of credit, even if it was attached to a credit card, would be reportable. Also, these proposed changes to AS 39.50 do conform with the requirements under AS 24.60 because its disclosure requirements begin with legislators, legislative employees, and the public members of the Select Committee on Legislative Ethics who will report all the things required by AS 39.50.030.

REPRESENTATIVE COGHILL commented that he understands that the cost of a bicycle and the value of a dividend might be worthy of reporting. He said he also understands that the aforementioned was in the initiative on income and that AS 24.60.200 talks about both the loan guarantee and the income. He said, "Obviously, I'm not going to borrow money for a bicycle, but ... the value of a bicycle is what we're talking about."

CHAIR RAMRAS opined that it's difficult to run for public office and fill out the ethics reports and the APOC reports. He further opined that he likes low common denominators, although

they are unpleasant, because they offer clarity later. To that end, Chair Ramras said that he supports Amendment 9.

REPRESENTATIVE DAHLSTROM posed a situation in which she does "day-trading" and asked whether she would need to disclose every month and quarter or each transaction. She then turned to the reporting of credit lines attached to credit cards and asked if she would have to report each transaction in order to be in compliance.

CHAIR RAMRAS said that he must list his bank, but he doesn't have to list it each time he goes into the credit line, but rather as an ongoing relationship throughout the year. If he obtained a second credit line through another bank, he would have to also list it as a credit relationship. Therefore, if a legislator has a credit card from which a line of credit is tapped, it would have to be listed no matter how many times it was tapped.

MS. MILES concurred.

REPRESENTATIVE DAHLSTROM asked whether the language "sources of income" should be clarified.

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MR. JONES pointed out that in Section 31, subsection (b)(1), the language, "for [THE SOURCE OF] all sources of income over \$5,000 during the preceding calendar year," allows the reporting [of the ongoing relationship] for the entire year.

CHAIR RAMRAS, on the issue of "trading," offered his understanding that gains in the amount of more than \$1,000 have to be reported regardless of the timeframe in which those gains accrued.

MS. MILES concurred.

CHAIR RAMRAS, in further response to Representative Dahlstrom, specified that the report would be annual and that what is reported would be no greater than what would have to be reported to the federal government.

REPRESENTATIVE DAHLSTROM surmised, then, that she could have a 365-page report just on day-trading if she were required [to report gains] every day.

MS. MILES responded that it's possible.

REPRESENTATIVE SAMUELS posed a situation in which he has individual stocks on which he made a \$1,000 a day, every day, for the first six months of the year, and then he loses \$1,000 a day, every day, for the last six months of the year. Therefore, he didn't make any money on an annual basis. In such a situation, he asked if he would have to issue reports for every day due to the transactions.

CHAIR RAMRAS pointed out that the legislation refers to reporting capital gains but doesn't speak to capital losses. Therefore, every individual capital gain over \$1,000 has to be reported. He noted that the dollar volume doesn't have to be shown nor does the amount of shares of each stock; one must just report the stock that was bought and sold. He said that the APOC isn't concerned with regard to the volume of the gain, so one can merely declare that the gain is greater than the specified threshold.

[1:49:25 PM](#)

REPRESENTATIVE GRUENBERG restated that he maintains his objection. He then reminded the committee that those individuals being discussed hold high level executive positions. To have to report every single stock transaction with a gain without reporting the offsetting losses could provide a skewed perspective of the person's income. The aforementioned could discourage good people, people of some means, from entering government service. He said he seriously doubts whether most of the voting public gave great thought to whether it was \$1,000 or \$5,000. Representative Gruenberg opined that whether the voting public would've said it wanted the same threshold to apply to the executive branch is purely conjecture. He said that \$5,000 today is a fairly low amount for people in "this" category.

A roll call vote was taken. Representatives Dahlstrom, Samuels, Lynn, and Ramras voted in favor of Amendment 9. Representatives Coghill and Gruenberg voted against it. Therefore, Amendment 9 was adopted by a vote of 4-2.

[1:52:45 PM](#)

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 11, labeled 25-GH1059\0.36, Bullard/Wayne, 3/21/07, which read:

Page 8, line 25, following "legislator":

Insert "i

(6) communicate directly with a spouse or domestic partner of a legislator if the spouse or domestic partner is registered as a lobbyist under AS 24.45.041 and the communication concerns legislative action; in this paragraph, "legislative action" has the meaning given in AS 24.45.171"

CHAIR RAMRAS objected for purposes of discussion.

REPRESENTATIVE GRUENBERG explained that Amendment 11 pertains to the prohibition regarding spousal lobbying, and is somewhat similar to legislation making its way through Congress and an amendment that would alter the rules of the U.S. Senate. Amendment 11 would prohibit a legislator or legislative employee from communicating directly with a spouse or domestic partner of a legislator, if that spouse or domestic partner is registered as a lobbyist under AS 24.45.041 and the communication concerns legislative action as defined in AS 24.45.171. Representative Gruenberg opined that this amendment is clearly constitutional as it regulates the members as well as their employees. He read the following definition in AS 24.45.171:

(9) "legislative action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat, or rejection of any bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature, or by a standing, interim, or special committee of the legislature, or by a member or employee of the legislature acting in an official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding, or sustaining that veto and the action of the legislature in considering, confirming, or rejecting an executive appointment of the governor;

[1:56:54 PM](#)

REPRESENTATIVE SAMUELS offered his understanding that Amendment 11 would specify that legislators couldn't talk to the spouse of a legislator if that spouse is a registered lobbyist.

REPRESENTATIVE GRUENBERG clarified that that would be the case but only if the discussion concerns matters within the

definition of lobbying. Therefore, a legislator can speak with the spouse of a legislator who is a lobbyist about things other than legislative activities.

REPRESENTATIVE SAMUELS surmised then: "You still can't lobby then. You can register as a lobbyist, you just can't talk to anybody."

REPRESENTATIVE GRUENBERG clarified that [the spouse who is a lobbyist] can't lobby the legislature but can lobby the executive branch. Representative Gruenberg highlighted that Amendment 11 is different from the aforementioned federal legislation in that it prohibits lobbying against both houses rather than just to the body to which the member belongs. He noted that he didn't necessarily feel strongly about whether that distinction was important.

CHAIR RAMRAS maintained his objection.

[1:59:04 PM](#)

REPRESENTATIVE LYNN offered his understanding, then, that if his wife was a lobbyist, he couldn't talk with her regarding legislation that he was considering.

CHAIR RAMRAS surmised that Representative Lynn couldn't talk with his wife, were she a lobbyist, about any issue in the legislature.

REPRESENTATIVE LYNN opined that that would be difficult to enforce.

REPRESENTATIVE SAMUELS announced that he is going to vote against Amendment 11. The perception [of unethical activity occurring] would be present when the spouse of a legislator is a lobbyist.

REPRESENTATIVE COGHILL agreed that he didn't want spouses as lobbyist due to the aforementioned perception, but opined that he didn't believe "we've gotten there yet."

A roll call vote was taken. Representative Gruenberg voted in favor of Amendment 11. Representatives Coghill, Samuels, Lynn, Dahlstrom, and Ramras voted against it. Therefore, Amendment 11 failed to be adopted by a vote of 1-5.

[2:00:59 PM](#)

CHAIR RAMRAS [made a motion to adopt] Amendment 12, labeled 25-GH0159\0.31, Wayne, 3/21/07, which read:

Page 9, following line 10:

Insert a new bill section to read:

"\* **Sec. 10.** AS 24.60.040(a) is amended to read:

(a) A legislator or legislative employee, or a member of the immediate family of a legislator or legislative employee, may not be a party to or have an interest in a state contract or lease unless the contract or lease is let under AS 36.30 (State Procurement Code) or, for agencies that are not subject to AS 36.30, under similar procedures, or the total annual amount of the state contract or lease is \$5,000 or less, or is a standardized contract or lease that was developed under publicly established guidelines and is generally available to the public at large, members of a profession, occupation, or group. A person has an interest in a state contract or lease under this section if the person receives direct or indirect financial benefits. A legislator or legislative employee who participates in, or who knows or reasonably should know that a family member is participating in, a state contract or lease that has an annual value of \$5,000 or more shall disclose the participation to the committee by the date required under AS 24.60.105. The committee shall promptly forward the disclosure to the appropriate house for inclusion in the journal, and the presiding officer shall cause the disclosure to be published in the journal or in the supplemental journal not later than the next regularly scheduled publication of ethics disclosures. The legislator or legislative employee shall also disclose the renegotiation of a state contract or lease if the original had to be disclosed under this section or if, as a result of renegotiation, disclosure is required under this section. The disclosure must state the amount of the contract or lease and the name of the state agency issuing the contract or lease and must identify the procedures under which the contract or lease was issued. If the disclosure concerns a contract or lease in which a family member of the discloser is participating, the disclosure must identify the relationship between the participant and the discloser."

Renumber the following bill sections accordingly.

Page 27, line 29:

Delete "sec. 36"

Insert "sec. 37"

Page 27, line 30:

Delete "sec. 36"

Insert "sec. 37"

Page 27, line 31:

Delete "sec. 37"

Insert "sec. 38"

Page 28, line 3:

Delete "sec. 37"

Insert "sec. 38"

Page 28, line 4:

Delete "sec. 38"

Insert "sec. 39"

Page 28, line 8:

Delete "sec. 38"

Insert "sec. 39"

Page 28, line 9:

Delete "Section 28"

Insert "Section 29"

Page 28, line 10:

Delete "Section 33"

Insert "Section 34"

Page 28, line 11:

Delete "secs. 42 and 43"

Insert "secs. 43 and 44"

MR. JONES relayed his understanding that Amendment 12 is aimed at requiring prompt publication of disclosures of legislators' and legislative employees' interests in state contracts and leases.

[2:02:14 PM](#)

REPRESENTATIVE DAHLSTROM objected for discussion purposes.

JOYCE ANDERSON, Ethics Committee Administrator, Select Committee on Legislative Ethics, Alaska State Legislature, explained that Amendment 12 is cleanup language for the legislative ethics code, which currently doesn't specify that the disclosure shall be published in the journal. Disclosures have been published up to this point based on the precedence by the Select Committee on Legislative Ethics that all are disclosed. Therefore, Amendment 12 would merely specify that in statute.

REPRESENTATIVE COGHILL asked about the status of electronic filing.

MS. ANDERSON said that she will be researching the possibility of electronic filing this interim. She recalled that her discussion with Representative Coghill earlier in the session was in regard to reviewing other states that utilize electronic reporting with the notion of possibly purchasing such a program and adapting it to the legislature's needs. Once reports can be filed on line, the House Chief Clerk and the Senate Secretary would be able to take that information directly rather than re-entering the information.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS asked whether there were any further objections to Amendment 12. There being none, Amendment 12 was adopted.

[2:04:24 PM](#)

REPRESENTATIVE GRUENBERG returned attention to Amendment 11, and opined that something was left out. He recalled that yesterday the committee adopted Amendment 2, which addressed lobbying by spouses. When Amendment 2 was adopted there was the understanding that there were significant potential constitutional problems. Therefore, he expressed the need to revisit Amendments 2 and 11. He mentioned that the committee packet includes two legal opinions related to those amendments from Alpheus Bullard, Legislative Legal and Research Services, dated February 26, 2007, and February 28, 2007. He encouraged the committee to review those legal opinions.

[2:06:58 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 13, labeled 25-GH0159\O.27, Wayne, 3/21/07, which read:

Page 9, line 27, following "determines":

Insert "by vote of a majority of committee members who are present"

Page 17, line 31, following "determines":

Insert "by vote of a majority of committee members who are present that"

REPRESENTATIVE SAMUELS objected.

MS. ANDERSON informed the committee that Amendment 13 is actually cleanup language related to exempting the publication of a disclosure because it may be an invasion of the person's privacy. She pointed out that Amendment 13 establishes a majority-vote requirement for the Select Committee on Legislative Ethics, and explained that a quorum will consist of three public members and two legislative members. Amendment 13 also utilizes the majority-vote language in the provision addressing the complaint process in an attempt to make that process consistent regarding how the committee makes those determinations.

REPRESENTATIVE SAMUELS said that he is usually more comfortable with having a majority of the committee members establish policy.

[2:09:21 PM](#)

MS. ANDERSON noted that Amendment 13 was drafted by Legislative Legal and Research Services. She then inquired as to whether the committee wanted it to reflect a majority of the committee members present or a majority of the committee members.

REPRESENTATIVE SAMUELS made a motion to adopt an amendment to Amendment 13 such that the language "who are present" being inserted on page 9, line 27, and "who are present that" being inserted on page 17, line 31, would be deleted. Therefore, Amendment 13, as amended, would read as follows:

Page 9, line 27, following "determines":

Insert "by vote of a majority of committee members "

Page 17, line 31, following "determines":

Insert "by vote of a majority of committee members"

REPRESENTATIVE GRUENBERG, drawing upon his time as a member of the Select Committee on Legislative Ethics, recalled that it's seldom that all members are there. He asked how often the amendment to Amendment 13 would prohibit the committee from acting.

MS. ANDERSON highlighted that within the bill there is language that would allow an alternate member to sit in when a regular member is unable to attend. Therefore, she opined that the [amendment to Amendment 13] would be "okay."

REPRESENTATIVE GRUENBERG withdrew his objection to the amendment to Amendment 13.

CHAIR RAMRAS announced that Amendment 13, as amended, was before the committee.

REPRESENTATIVE SAMUELS [withdrew] his objection.

CHAIR RAMRAS asked whether there were any further objections to Amendment 13, as amended. There being none, Amendment 13, as amended, was adopted.

[2:11:01 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 14, labeled 25-GH0159\O.30, Wayne, 3/21/07, which read:

Page 10, following line 4:

Insert a new bill section to read:

"\* **Sec. 11.** AS 24.60.070(a) is amended to read:

(a) A legislator or legislative employee shall disclose to the committee, which shall maintain a public record of the disclosure and forward the disclosure to the respective house for inclusion in the journal, the formation or maintenance of a close economic association involving a substantial financial matter with

(1) a supervisor who is not a member of the legislature who has responsibility or authority, either directly or indirectly, over the person's employment, including preparing or reviewing performance evaluations, or granting or approving pay raises or promotions; this paragraph does not apply to a public member of the committee;

(2) legislators;

(3) a public official as that term is defined in [WHO IS REQUIRED TO FILE A FINANCIAL DISCLOSURE STATEMENT UNDER] AS 39.50 [AND IS NOT AN APPOINTED MUNICIPAL OFFICER];

(4) a registered lobbyist; or

(5) a legislative employee if the person required to make the disclosure is a legislator."

Renumber the following bill sections accordingly.

Page 27, line 29:

Delete "sec. 36"

Insert "sec. 37"

Page 27, line 30:

Delete "sec. 36"

Insert "sec. 37"

Page 27, line 31:

Delete "sec. 37"

Insert "sec. 38"

Page 28, line 3:

Delete "sec. 37"

Insert "sec. 38"

Page 28, line 4:

Delete "sec. 38"

Insert "sec. 39"

Page 28, line 8:

Delete "sec. 38"

Insert "sec. 39"

Page 28, line 9:

Delete "Section 28"

Insert "Section 29"

Page 28, line 10:

Delete "Section 33"

Insert "Section 34"

Page 28, line 11:

Delete "secs. 42 and 43"

Insert "secs. 43 and 44"

REPRESENTATIVE SAMUELS objected.

MS. ANDERSON relayed that this proposed change was recommended after a discussion with the APOC regarding individuals required to file financial disclosures. She offered her understanding that certain cities have elected and appointed public officials that are allowed to exempt themselves from filing financial disclosures by going to the voters and asking [to be exempted]. One such city is the City of Cordova. Therefore, Amendment 14 would remove the requirement that a public official as defined in AS 39.50 file a financial disclosure form.

REPRESENTATIVE SAMUELS withdrew his objection.

CHAIR RAMRAS, after ascertaining that there were no further objections, announced that Amendment 14 was adopted.

[2:12:34 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 15, labeled 25-GH0159\0.17, Wayne, 3/20/07, which read:

Page 11, line 18:

Following "from a legislator":

Insert "**or a legislative employee**"

Following "to a legislator":

Insert "**or a legislative employee**"

REPRESENTATIVE COGHILL objected.

MS. ANDERSON explained that Amendment 15 addresses the gift of transportation from a legislator or legislative employee to a legislator or legislative employee.

REPRESENTATIVE GRUENBERG objected. He asked if the language means that he would have to disclose every time that he gives his staff a ride.

MS. ANDERSON said that it's not meant for such situations.

REPRESENTATIVE GRUENBERG removed his objection.

REPRESENTATIVE COGHILL asked for clarification.

MS. ANDERSON noted that Amendment 15 is proposing a change to the gift section of Title 24. She relayed that over time she has had requests regarding a legislator wanting to take a legislative employee on a trip, which has been interpreted as a

gift. Therefore, under Amendment 15, this becomes an exemption under the gift statute and thus it's not required to be reported.

CHAIR RAMRAS, after ascertaining that there were no further objections, announced that Amendment 15 was adopted.

[2:16:54 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 16, labeled 25-GH0159\O.18, Wayne, 3/20/07, which read:

Page 12, line 19:

Following "shall":

Insert ", within 30 days after receiving the gift,"

Following "committee":

Delete "annually on or before March 15"

Insert "[ANNUALLY ON OR BEFORE MARCH 15]"

REPRESENTATIVE COGHILL objected for the purpose of discussion. After offering his understanding that Amendment 16 merely provides conforming language, he removed his objection.

CHAIR RAMRAS, after ascertaining that there were no further objections, announced that Amendment 16 was adopted.

[2:18:27 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 17, labeled 25-GH1059\O.19, Wayne, 3/20/07, which read:

Page 13, line 30, following "filing":

Insert "the"

CHAIR RAMRAS, after ascertaining that there were no objections, announced that Amendment 17 was adopted.

[2:18:46 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 18, labeled 25-GH1059\O.21, Wayne, 3/21/07, which read:

Page 16, line 17:

Delete "in January of each year"

Insert "within 10 days of the first day of each regular session of the legislature"

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE GRUENBERG pointed out that the legislature might not be in session in January.

REPRESENTATIVE COGHILL suggested that it may be within 10 days of the first regular session.

REPRESENTATIVE COGHILL then removed his objection.

MS. ANDERSON said that the language in Amendment 18 isn't problematic.

REPRESENTATIVE COGHILL pointed out that there is flexibility in the language because it refers to the times determined by the committee.

CHAIR RAMRAS, after ascertaining that there were no further objections, announced that Amendment 18 was adopted.

[2:21:04 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 19, labeled 25-GH1059\0.29, Wayne, 3/20/07, which read:

Page 16, line 23, following "complete":  
Delete "the"  
Insert "a"

Page 16, line 24:  
Delete "AS 24.60.150(a)"  
Insert "AS 24.60.150(a)(4)"

Page 16, line 28, following "service":  
Insert "and, thereafter, as otherwise required by this section"

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG commented that this [proposed change] is fine.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS, after ascertaining that there were no further objections, announced that Amendment 19 was adopted.

2:22:51 PM

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 20, labeled 25-GH1059\O.15, Wayne, 3/19/07, which read:

Page 16, line 23, following "complete":

Delete "the legislative ethics course administered by the committee under AS 24.60.150(a) within 10 days of the first day of the first regular session of each legislature"

Insert ", within 10 days of the first day of the first regular session of each legislature, a legislative ethics course administered by the committee under AS 24.60.150(a)"

REPRESENTATIVE COGHILL objected.

MS. ANDERSON interjected that Amendment 20 would alter what was just changed via Amendment 19.

CHAIR RAMRAS announced that Amendment 20 has been withdrawn.

2:23:42 PM

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 21, labeled 25-GH1059\O.34, Luckhaupt/Wayne, 3/20/07, which read:

Page 25, line 27, following "\$5,000":

Insert "and less than one percent of the total value of the business"

REPRESENTATIVE GRUENBERG explained that if the value of the stock is less than \$5,000, if it's more than one percent of the total value of the stock, it's not insignificant. The reason for this is because often, particularly in closely held corporations, it's difficult to determine exactly what the value of the stock is. He said that it's often much easier to determine the percentage ownership, which is why an individual could have an interest that's significant without knowing the exact value. Therefore, rather than going through a potentially lengthy hearing to determine the value of the stock if it ever becomes litigated, there would only have to be a determination that the individual owns more than 1 percent and thus it must be disclosed and the officer disqualify himself/herself if necessary.

2:25:46 PM

REPRESENTATIVE COGHILL objected.

MR. JONES explained that the difficulty with Amendment 21 is that it would require the attorney general, the designated ethics supervisors, and the personnel board to determine in every case whether an interest was both less than \$5,000 and less than 1 percent of the total stock in the business or the total value of the business. Mr. Jones opined that it will be more difficult to calculate 1 percent of the value of the business. If the interest is worth less than \$5,000, he questioned whether anyone cares what percentage it is of the business since what really matters is how much money is at stake. If it's less than \$5,000, the determination has been made that it's insignificant or presumptively insignificant. Therefore, [finding out the percentage of the whole] is not really germane to the ultimate decision regarding whether owning such stock or interest is an ethical thing to do, he opined.

CHAIR RAMRAS expressed concern with the fact that Amendment 21 revolves around book value, which is a more complicated figure to address than an investment. For instance, if one invests \$5,000 into a fully depreciated business that has a very low book value, it's difficult to determine the percentage of ownership.

REPRESENTATIVE GRUENBERG relayed that the book value may have very little relation to the actual value of the stock, particularly if there's a potential conflict of interest. If an employee of the executive branch is allowed to participate, it may dramatically increase the value of the stock. Therefore, the question becomes whether to review the value of the stock before or after the action. It could be a situation in which the stock has very little value, but will increase once the permit is granted. The executive branch employee who wants to exempt himself/herself from this prohibition would merely indicate the number of outstanding shares and the number of shares he/she owned.

REPRESENTATIVE GRUENBERG clarified that in order to exempt oneself, an individual would have to meet both criteria. Therefore, if an individual owns less than 1 percent but it was valued at more than \$5,000, then it isn't presumed insignificant.

CHAIR RAMRAS said that he will maintain his objection.

2:30:12 PM

REPRESENTATIVE COGHILL said it seems that if an individual is going to have an income from any stock ownership that's over \$1,000, it will have to be reported anyway.

MR. JONES said that's correct, if the individual is required to report. However, the provision that Amendment 21 is proposing to change pertains to the Alaska Executive Branch Ethics Act, which applies to everyone, but not everyone in the executive branch has to file financial disclosures. Additionally, the language in the legislation refers to a presumption and those cases in which the current interest is worth less than \$5,000 but a particular action taken will dramatically increase the value of that interest. He then noted that because the language is framed in the negative and there is an "and", both criteria would have to be met in order for it to be considered insignificant under the amendment.

REPRESENTATIVE GRUENBERG said that the question is, where should the presumption lie. If the goal is public disclosure and freedom from an appearance of impropriety by an individual's actions that might increase the value of the shares, then the presumption should be that it is significant.

CHAIR RAMRAS opined that the Alaska Executive Branch Ethics Act is complicated enough and shouldn't be complicated further by double negatives in statute.

A roll call vote was taken. Representatives Lynn and Gruenberg voted in favor of Amendment 21. Representatives Samuels, Holmes, Dahlstrom, Coghill, and Ramras voted against it. Therefore, Amendment 21 failed to be adopted by a vote of 2-5.

2:33:26 PM

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 22, which read [original punctuation provided]:

Page 25, line 27:

Delete "its value"  
Insert "the value of the stock or other ownership  
interest"

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE GRUENBERG commented that Amendment 22 is merely a technical amendment with conforming language.

REPRESENTATIVE COGHILL removed his objection.

CHAIR RAMRAS, after ascertaining that there were no further objections, announced that Amendment 22 was adopted.

[2:35:37 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 23, which read [original punctuation provided]:

Page 26, line 22:

Delete "who is required to file a statement under AS 39.50.020"

Insert "in a policy-making position"

Page 26, lines 25 - 26:

Delete "who is required to file a statement under AS 39.50.020"

Insert "in a policy-making position"

Page 27, line 4:

Delete "who is required to file a statement under AS 39.50.020"

Insert "in a policy-making position"

Page 27, following line 7:

Insert a new bill section to read:

"\* **Sec. 39.** AS 39.52.180 is amended by adding a new subsection to read:

(f) In this section, 'employee of the Office of the Governor in a policy-making position' means an employee required, by virtue of his or her position in the Office of the Governor, to file a statement under AS 39.50.020."

Renumber the following bill sections accordingly.

Page 28, line 11:

Delete "secs. 42 and 43"

Insert "secs. 43 and 44"

REPRESENTATIVE SAMUELS objected.

REPRESENTATIVE COGHILL explained that Amendment 23 addresses who would be required to file a statement.

MR. JONES relayed that Amendment 23 is merely cleanup language to clarify who is subject to the lobbying restrictions under Section 37 and the restrictions under Section 38 regarding serving on certain boards. The House State Affairs Standing Committee attempted to identify those policy-making positions in the Office of the Governor that would be subject to both restrictions. There was concern with the choice made in the House State Affairs Standing Committee that perhaps some members of the governor's office would have to file statements with the APOC because they run for a school board or some other such organization. Therefore, in order to provide clarity and avoid ambiguity, Amendment 23 was proposed.

[2:37:33 PM](#)

REPRESENTATIVE GRUENBERG asked whether the language should include the phrase, "statement of financial and business interest" rather than merely referring to the statute where that phrase is located.

MS. MILES specified that statements under AS 39.50.020 are filed with the APOC, and said that it's all part of the annual public official financial disclosure report.

REPRESENTATIVE SAMUELS turned the discussion to Section 36 regarding the two-year prohibition and Section 37 regarding the one-year prohibition for various people in the executive branch. He mentioned that [this discrepancy] could be addressed via Amendment 23, although he acknowledged that the issue might need to be discussed further at some point.

CHAIR RAMRAS suggested that the committee address it tomorrow.

CHAIR RAMRAS, after ascertaining that the objection had been removed and that there were no further objections, announced that Amendment 23 was adopted.

[2:39:41 PM](#)

REPRESENTATIVE LYNN made a motion to adopt Amendment 24, labeled 25-GH1059\0.24, Wayne, 3/20/07, which read:

Page 27, following line 26:

Insert a new bill section to read:

"\* **Sec. 41.** AS 39.52.910 is amended by adding a new subsection to read:

(d) Nothing in this chapter

(1) supersedes AS 39.90.020; or

(2) precludes a person from being in an employment relationship with a member of the person's immediate family if the person

(A) does not supervise the immediate family member; or

(B) supervises the immediate family member but exercise of the supervision is only routine; under this subparagraph, supervision is routine only if, as to a decision that requires the person's exercise of independent judgment, the person may not act or recommend the family member's

(i) appointment to employment, including hiring, transferring, laying off, and rehiring;

(ii) discipline, including suspension, discharge, demotion, and issuance of written warnings; or

(iii) grievance adjudication, including responding to a first level grievance under a collective bargaining agreement."

Renumber the following bill sections accordingly.

Page 28, line 11:

Delete "secs. 42 and 43"

Insert "secs. 43 and 44"

REPRESENTATIVE DAHLSTROM objected.

REPRESENTATIVE LYNN opined that everyone is opposed to nepotism in its various forms. However, given that Alaska is such a small state [with regard to population], there needs to be a certain element of common sense.

REPRESENTATIVE GRUENBERG pointed out that the last page of Ms. Drygas's memorandum has an amendment, which was placed in the legislature's form by Legislative Legal and Research Services as Amendment 24.

[2:44:05 PM](#)

HEIDI DRYGAS, General Counsel, Public Employees Local 71, Alaska District Council of Laborers, echoed Representative Lynn's comment that Amendment 24 is a common sense amendment, adding

that it attempts to clarify the scope of the Ethics Act and to realign it with the long-standing state policy that family members may not work together if they are in a supervisory relationship. A current policy adopted by the administration is creating many problems with nonsupervisory family members working together, especially in smaller rural and Native communities.

MS. DRYGAS, in response to a question, said that a situation in which a family member is in a supervisory role over another family member should be scrutinized; Amendment 24 is meant to clarify that if it's a nonsupervisory situation, then it shouldn't be problematic under the Alaska Executive Branch Ethics Act.

REPRESENTATIVE SAMUELS offered his understanding that since Amendment 24 doesn't supersede AS 39.90.020, it doesn't affect any of the upper-level positions. Therefore, the commissioner of a department can't hire his/her child.

MR. JONES concurred. In further response to Representative Samuels, Mr. Jones pointed out that the current Alaska Executive Branch Ethics Act prohibits the granting of unwarranted benefits to someone else based on inappropriate considerations, one of which would be to make the boss happy. Mr. Jones expressed concern that Amendment 24 would allow someone to recommend a promotion, assign overtime, and evaluate an immediate family member. The aforementioned items aren't included in the definition of supervision, which comes from the regulations and statutes that apply to determining who belongs in which bargaining unit. These are the criteria the Alaska Labor Relations Agency uses when it decides whether an individual is placed in a supervisory unit or a "rank and file" unit.

MR. JONES noted that the DOL issued an ethics opinion in 2005 which stated that it was inappropriate for someone to have the ability to assign overtime to and/or evaluate an immediate family member. In response to that opinion, the DOA adopted a policy that's consistent with the direction the DOL provided in the aforementioned ethics opinion. Amendment 24 would undermine both of those and move in the opposite direction of the provisions in HB 109 by loosening the restrictions, he opined.

[2:49:31 PM](#)

REPRESENTATIVE DAHLSTROM asked if Amendment 24 pertains to those in a commissioner or deputy commissioner position and spouses in the legislative branch.

MR. JONES said that it doesn't apply to the legislative branch, but applies solely to the executive branch.

REPRESENTATIVE DAHLSTROM withdrew her objection.

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE SAMUELS commented that the entire debate on the legislation has been regarding legislators, legislative staff, and upper management people. However, Amendment 24 pertains to mid-level and lower-level management staff as well as bargaining unit politics. He said that he would maintain an objection.

REPRESENTATIVE GRUENBERG noted his disagreement, and pointed out that AS 39.50 only applies to upper level executives while AS 39.52, which is addressed via a large portion of HB 109, pertains to all employees in the executive branch. He pointed out that Sections 34-40 apply to all levels in the executive branch.

REPRESENTATIVE HOLMES indicated that she doesn't feel sufficiently versed in what Amendment 24 does at this time, and expressed the need for further research.

REPRESENTATIVE DAHLSTROM requested that Amendment 24 be held.

CHAIR RAMRAS announced that Amendment 24 would be tabled.

REPRESENTATIVE LYNN opined that HB 109 is problematic because it casts too wide of a net.

[2:53:56 PM](#)

REPRESENTATIVE DAHLSTROM made a motion to adopt Amendment 25, labeled GH1059\0.6, Wayne, 3/16/07, which read:

Page 1, line 1, following "**Act**":

Insert "**denying public employee retirement pension benefits to certain legislators, legislative directors, and public officers who commit certain offenses, and adding to the duties of the Alaska Retirement Management Board and to the list of matters**

governed by the Administrative Procedure Act concerning that denial;"

Page 1, following line 7:

Insert new bill sections to read:

"\* **Section 1.** AS 14.25 is amended by adding a new section to read:

**Sec. 14.25.212. Pension forfeiture.** The provisions of AS 37.10.310 apply to pension benefits under AS 14.25.009 - 14.25.220.

\* **Sec. 2.** AS 14.25 is amended by adding a new section to read:

**Sec. 14.25.532. Pension forfeiture.** The provisions of AS 37.10.310 apply to pension benefits under AS 14.25.310 - 14.25.590."

Page 1, line 8:

Delete "**Section 1**"

Insert "**Sec. 3**"

Renumber the following bill sections accordingly.

Page 2, following line 21:

Insert a new bill section to read:

"\* **Sec. 5.** AS 22.25 is amended by adding a new section to read:

**Sec. 22.25.800. Pension forfeiture.** The provisions of AS 37.10.310 apply to pension benefits under this chapter."

Renumber the following bill sections accordingly.

Page 20, following line 21:

Insert new bill sections to read:

"\* **Sec. 33.** AS 37.10.220(a) is amended by adding a new paragraph to read:

(16) administer pension forfeitures required under AS 37.10.310 using the procedures of AS 44.62 (Administrative Procedure Act).

\* **Sec. 34.** AS 37.10 is amended by adding a new section to read:

**Sec. 37.10.310. Pension forfeiture to preserve public trust in government.** (a) A public officer, as defined in AS 39.52.960, a legislator, or a person employed as a legislative director, as that term is defined in AS 24.60.990, who is convicted of a federal

or state felony offense of bribery, receiving a bribe, perjury, subornation of perjury, scheme to defraud, or fraud may not receive a state pension benefit if the offense was committed on or after the effective date of this section and was in connection with the person's official duties.

(b) Pension benefits and employee contributions that accrue to a person before the date of the person's commission of the offense described in (a) of this section are not diminished or impaired by that subsection.

(c) A state pension benefit under (a) of this section does not include

(1) insurance, voluntary wage reductions, involuntary wage reductions, or supplemental or health benefits under AS 39.30.090 - 39.30.495 or former AS 39.37.145;

(2) member or employee contributions under AS 14.25.050, 14.25.055, 14.25.075, 14.25.340, 14.25.360(a), AS 22.25.011, AS 39.35.160, 39.35.165(f), 39.35.180, 39.35.730, 39.35.760(a), or former AS 39.37.070.

(d) In a pension forfeiture matter under this section the board may award to a spouse, dependent, or former spouse of the person governed by the limitations in (a) of this section some or all of the amount that, but for the forfeiture under (a) of this section, may otherwise be payable. In determining whether to make an award under this subsection, the board shall consider the totality of circumstances, including

(1) the role, if any, of the person's spouse, dependent, or former spouse in connection with the illegal conduct for which the person was criminally charged;

(2) the degree, if any, to which the person's spouse, dependent, or former spouse profited financially from the person's illegal conduct; and

(3) any restitution ordered by the court in the criminal case and the amount of restitution, if any, still owing.

\* **Sec. 35.** AS 39.35 is amended by adding a new section to read:

**Sec. 39.35.672. Pension forfeiture.** The provisions of AS 37.10.310 apply to pension benefits under AS 39.35.095 - 39.35.680.

\* **Sec. 36.** AS 39.35 is amended by adding a new section to read:

**Sec. 39.35.932. Pension forfeiture.** The provisions of AS 37.10.310 apply to pension benefits under AS 39.35.700 - 39.35.990."

Renumber the following bill sections accordingly.

Page 27, following line 26:

Insert new bill sections to read:

"\* **Sec. 48.** AS 44.62.330(a) is amended by adding a new paragraph to read:

(47) the Alaska Retirement Management Board for administration of pension forfeitures under AS 37.10.310.

\* **Sec. 49.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY TO ELECTED PUBLIC OFFICERS' RETIREMENT SYSTEM. The provisions of AS 37.10.310, added by sec. 34 of this Act, apply to benefits under former AS 39.37 (elected public officers' retirement system)."

Renumber the following bill sections accordingly.

Page 27, line 29:

Delete "sec. 36"

Insert "sec. 43"

Page 27, line 30:

Delete "sec. 36"

Insert "sec. 43"

Page 27, line 31:

Delete "sec. 37"

Insert "sec. 44"

Page 28, line 3:

Delete "sec. 37"

Insert "sec. 44"

Page 28, line 4:

Delete "sec. 38"

Insert "sec. 45"

Page 28, line 8:

Delete "sec. 38"

Insert "sec. 45"

Page 28, line 9:

Delete "Section 28"

Insert "Section 31"

Page 28, line 10:

Delete "Section 33"

Insert "Section 40"

Page 28, line 11:

Delete "secs. 42 and 43"

Insert "secs. 51 and 52"

REPRESENTATIVE COGHILL objected.

REPRESENTATIVE GRUENBERG said that he supports the concept, but would prefer to have a legal opinion regarding the amendment's constitutionality in view of Article XII, Section 7, of the Alaska State Constitution, which read:

Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

CHAIR RAMRAS, in response to comments, directed attention to the language of Amendment 25 that would add a new AS 37.10.310(b) and which read:

(b) Pension benefits and employee contributions that accrue to a person before the date of the person's commission of the offense described in (a) of this section are not diminished or impaired by that subsection.

[2:57:02 PM](#)

REPRESENTATIVE SAMUELS sought assurance that the language in Amendment 25 that says, "was in connection with the person's official duties" means that the offense would be something such as the acceptance of a bribe. Even if the DOL relays that there is a constitutional problem with Amendment 25, Representative Samuels expressed a preference for [adopting Amendment 25] and letting the courts address the issue of constitutionality.

MR. JONES offered his understanding that the offense has to be in connection with official duty, and that the purpose behind Amendment 25 is to avoid giving a state benefit to someone who has misused an official office.

REPRESENTATIVE DAHLSTROM asked if Amendment 25 would apply in cases in which a state employee uses his/her state computer during his/her off time [to access] pornography and yet that employee may be doing his/her job extremely well.

MR. JONES answered that if any state equipment were involved, he would want a judge to convict that individual and seek forfeiture; if any aspect of the state office were used, there would be a good argument that it's an offense committed in connection with the individual's official duties. In further response to Representative Dahlstrom, Mr. Jones said that if there's no connection to performance of official duties or use of state equipment, Amendment 25 wouldn't seem to apply.

REPRESENTATIVE DAHLSTROM asked if another piece of legislation would be necessary in order to send the pension of the individual who is in the penitentiary to the victim.

MR. JONES replied yes.

REPRESENTATIVE GRUENBERG asked whether the aforementioned new AS 37.10.310(b) provided for via Amendment 25 saves the bill from being unconstitutional under Article I, Section 7.

MR. JONES said that he isn't in a position to offer a constitutional opinion. He suggested that one concern is changing the rules after one has already entered the system. Therefore, it may be that in order to be constitutional, these changes may have to be applicable only to those who enter the retirement system after the effective date of [the bill].

CHAIR RAMRAS announced that Amendment 25 would be tabled.

[CSHB 109(STA), as amended, was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:02 p.m.