

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 15, 2007

8:03 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Bob Roses, Vice Chair
Representative John Coghill
Representative Kyle Johansen
Representative Craig Johnson
Representative Andrea Doll
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 11

Relating to the increased authority granted to the President of the United States to federalize the National Guard of the individual states without the consent of the governors; and urging the United States Congress to take action to restore the sovereignty of the individual states to regulate and command the National Guard of the states.

- MOVED CSHJR 11(STA) OUT OF COMMITTEE

HOUSE BILL NO. 171

"An Act relating to the terms of legislators, the date and time for convening regular legislative sessions, adoption of uniform rules of the legislature and to certain of those rules, the date for organizing the Legislative Budget and Audit Committee, and deadlines for certain matters or reports to be delivered to the legislature or filed; prohibiting bonuses for legislative employees; and providing for an effective date."

- HEARD AND HELD

HOUSE JOINT RESOLUTION NO. 6

Proposing amendments to the Constitution of the State of Alaska relating to the office of attorney general.

- HEARD AND HELD

HOUSE BILL NO. 62

"An Act providing for partial tuition assistance for families of members of the Alaska National Guard; directing the adjutant general to seek additional funding to support tuition assistance; and providing for free hunting and sport fishing licenses for active members of the Alaska National Guard."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HJR 11

SHORT TITLE: STATE'S CONTROL OF NATIONAL GUARD

SPONSOR(s): REPRESENTATIVE(s) ROSES

02/28/07	(H)	READ THE FIRST TIME - REFERRALS
02/28/07	(H)	MLV, STA
03/06/07	(H)	MLV AT 1:00 PM BARNES 124
03/06/07	(H)	Moved Out of Committee
03/06/07	(H)	MINUTE(MLV)
03/07/07	(H)	MLV RPT 4DP
03/07/07	(H)	DP: LEDOUX, FAIRCLOUGH, BUCH, ROSES
03/15/07	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 171

SHORT TITLE: ACCOMMODATE 90-DAY SESSION

SPONSOR(s): RULES

03/01/07	(H)	READ THE FIRST TIME - REFERRALS
03/01/07	(H)	STA
03/06/07	(H)	STA AT 8:00 AM CAPITOL 106
03/06/07	(H)	Scheduled But Not Heard
03/15/07	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HJR 6

SHORT TITLE: CONST. AM: ELECTED ATTORNEY GENERAL

SPONSOR(s): REPRESENTATIVE(s) CRAWFORD

01/25/07	(H)	READ THE FIRST TIME - REFERRALS
01/25/07	(H)	STA, JUD, FIN
03/15/07	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

JOSH APPLEBEE, Staff
to Representative Bob Roses

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 11 on behalf of
Representative Roses, prime sponsor.

RYNNIEVA MOSS, Staff
to Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of the House Rules Standing
Committee, sponsor by request, which is chaired by
Representative Coghill, presented the sectional analysis in HB
171.

JOHN BOUCHER, Senior Economist
Office of the Director
Office of Management & Budget (OMB)
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 171.

REPRESENTATIVE HARRY CRAWFORD
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HJR 6 as prime sponsor.

ACTION NARRATIVE

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at [8:03:06 AM](#). Representatives Roses, Coghill, Johansen, Johnson, and Lynn were present at the call to order. Representatives Gruenberg and Doll arrived as the meeting was in progress.

HJR 11-STATE'S CONTROL OF NATIONAL GUARD

[8:03:50 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE JOINT RESOLUTION NO. 11, Relating to the increased authority granted to the President of the United States to federalize the National Guard of the individual states without the consent of the governors; and urging the United States Congress to take action to restore the sovereignty of the individual states to regulate and command the National Guard of the states.

[8:04:23 AM](#)

REPRESENTATIVE ROSES, as prime sponsor of HJR 11, said the proposed legislation is designed to emphasize to the U.S. Congress the importance of state sovereignty in terms of controlling the Alaska National Guard. He turned over presentation of the resolution to his staff.

[8:05:10 AM](#)

JOSH APPLEBEE, Staff to Representative Bob Roses, Alaska State Legislature, presented HJR 11 on behalf of Representative Roses, prime sponsor. He stated that the 2007 Defense Authorization Bill signed in to law by the President in October 2006 changed the 200-year-old Insurrection Act. The change empowers the President in future stateside emergencies, by allowing him/her to deploy U.S. armed forces and federalize state Guard troops, without consulting the governors within each state, in the event of a natural disaster, epidemic, or other serious public health emergency, terrorist attack, or incident. Mr. Applebee indicated that the governors of all states and U.S. territories have opposed the change. The proposed resolution asks that the President consult with "the governors and the states before taking over the National Guards."

[8:06:16 AM](#)

REPRESENTATIVE ROSES indicated that there is a consensus that the relationship between the armed forces and the National Guard in Alaska is "a model to be used for every other state." If the National Guard is busy, the Armed Forces will step in, and vice versa. He stated there is no reason to change the practice of complete cooperation that already exists, and he said he feels strongly about HJR 11 and encourages everyone to support it.

[8:07:32 AM](#)

REPRESENTATIVE ROSES, in response to a question from Chair Lynn, said prior to [the 2007 Defense Authorization Bill], all that was necessary in the case of an emergency or national disaster was for the President simply to call the governor "and the governor activates." He said he thinks [the 2007 Defense Authorization Bill] was "a knee-jerk reaction" to the situation surrounding Hurricane Katrina, and he said he doesn't think it solves the problem.

[8:09:37 AM](#)

REPRESENTATIVE COGHILL expressed his appreciation for the resolution.

[8:10:24 AM](#)

MR. APPLEBEE, in response to a question from Representative Coghill, said the language in the resolution was patterned after several letters sent from the National Governors' Association (NGA) to U.S. Congress and the President of the United States.

[8:10:52 AM](#)

REPRESENTATIVE COGHILL expressed interest in strengthening the language of the resolution. He directed attention to language in the "**FURTHER RESOLVED**" portion of HJR 11, on page 2, lines 10-13, which read as follows:

FURTHER RESOLVED that the Alaska State Legislature urges federal action to restore the sovereignty of the individual states to regulate and command National Guard troops during emergencies and disasters, and to take whatever additional actions are necessary to correct the encroachment of constitutional authority to protect the citizens of each state.

REPRESENTATIVE COGHILL said states already have sovereignty under the Tenth Amendment.

[8:12:17 AM](#)

REPRESENTATIVE COGHILL moved Amendment 1 as follows:

On page 2, line 11:

Delete "restore"
Insert "honor"

On page 2, line 12:

Between "whatever" and "actions"
Delete "additional"

CHAIR LYNN asked if there was any objection to Amendment 1. There being none, it was so ordered.

[8:12:53 AM](#)

REPRESENTATIVE DOLL asked if the President, as Commander in Chief, has the power to override governors at any point.

MR. APPLEBEE responded that the President does not have that power "at any point." He said the Insurrection Act of 1807 outlines the situations in which the President does have the power to override the governors, in terms of federalizing the National Guard. The 2007 Defense Authorization Bill gives the President "additional powers within those confines."

REPRESENTATIVE DOLL asked, "Because it was domestic?"

MR. APPLEBEE answered that's correct.

[8:13:44 AM](#)

REPRESENTATIVE GRUENBERG directed attention to page 1, lines [13-14], which read, "to recognize the militia's state role," and he suggested that that should be changed to "honor the militia's state role".

REPRESENTATIVE COGHILL said he thinks "recognize" is the right word to use. He explained that he had proposed the change in Amendment 1 because he didn't want to diminish the effect of the language by leaving in the word "restore" on page 2, line 11.

[8:14:34 AM](#)

REPRESENTATIVE DOLL moved to report HJR 11, as amended, out of committee with individual recommendations [and the accompanying fiscal notes]. There being no objection, CSHJR 11(STA) was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from [8:15:09 AM](#) to [8:17:18 AM](#).

HB 171-ACCOMMODATE 90-DAY SESSION

[8:17:25 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 171, "An Act relating to the terms of legislators, the date and time for convening regular legislative sessions, adoption of uniform rules of the legislature and to certain of those rules, the date for organizing the Legislative Budget and Audit Committee, and deadlines for certain matters or reports to

be delivered to the legislature or filed; prohibiting bonuses for legislative employees; and providing for an effective date."

[8:17:59 AM](#)

REPRESENTATIVE COGHILL referred to a recently passed initiative, which amends AS 24.05.150. He read the amended language as follows:

The legislature shall adjourn from a regular session within 90 consecutive calendar days, including the day the legislature first convenes in that regular session. This Act takes effect the first day of the second regular session of the Twenty-Fifth Legislature.

REPRESENTATIVE COGHILL said the legislature needs to accommodate the initiative. He said there are 23 sections in the bill, most of which address "small movements of timeline issues." He said there will be issues to consider, such as when to start the session, and whether or not to impose a rule that would not allow a bill to be carried into the second year of the session if it has not passed the first body.

[8:22:17 AM](#)

RYNNIEVA MOSS, Staff to Representative John Coghill, Alaska State Legislature, on behalf of the House Rules Standing Committee, sponsor by request, which is chaired by Representative Coghill, presented the sectional analysis in HB 171. She reviewed the sectional analysis for Section 1, which read as follows:

Section 1. Public Safety annual report on activities of the narcotic drug and alcohol enforcement unit will be available the first day of session. Currently it is to be made available within 30 days.

MS. MOSS directed attention to a chart included in the committee packet that shows current and proposed dates for certain deadlines.

[8:24:28 AM](#)

MS. MOSS turned to the sectional analysis for Section 2, which read as follows [original punctuation provided]:

Sec. 2. In odd numbered years Public Safety submits their report on repeated child sexual abuse arrests and criminal exploitation of children to legislature on first day of session.

MS. MOSS reviewed the sectional analysis for Sections 3 through 5, which read as follows [original punctuation provided]:

Sec. 3. Changes the beginning of the term of each member of the legislature to the second Monday of February. (in Senate version).

Sec. 4. Starts session the second Monday of February. (in Senate version).

Sec. 5. Expand the direction of the legislature to adopt uniform rules at the beginning of each session. Currently the legislature adopts uniform rules in first legislative session.

MS. MOSS related that the change made by Section 5 may or may not be a good idea. She explained that the "plus" is that the adoption of uniform rules in joint session does not require a two-thirds vote. However, a two-thirds vote is required in order to amend the rules by concurrent resolution. She said that is a policy call that the committee will have to make.

MS. MOSS reviewed the sectional analysis for Sections 6 and 7, which read as follows [original punctuation provided]:

Sec. 6. Requires the department affected by a piece of legislation to deliver to a requesting legislative committee a fiscal note within three days of the request. This is a change from five days and after the 90th day two days.

Sec. 7. Extends the profile [sic] deadline from January 1 to February 1.

MS. MOSS noted that the word "profile" should be "prefile". She continued on to the sectional analysis for Section 8, which read as follows [original punctuation provided]:

Sec. 8. Requires a bill introduced in the first legislative session to be passed through its house of

origin in the first session to be considered in the second session.

MS. MOSS said Section 8 would not preclude someone from introducing a new bill in the second session. She reviewed the sectional analysis for Sections 9 and 10, which read as follows, [original punctuation provided]:

Sec. 9. Cleans up AS 24.10.220 and clarifies legislative employees cannot be awarded bonuses.

Sec. 10. Requires the Legislative Budget & Audit Committee to be organized within 10 days after the convening of the legislature.

MS. MOSS noted that currently the Legislative Budget & Audit Committee has 15 days to organize. She moved on to the sectional analysis for Sections 11-13, which read as follows [original punctuation provided]:

Sec. 11. Requires the Legislative Budget & Audit Committee to prepare a report of investment programs, plans, performance, and policies of all agencies of the state that perform lending or investment functions and notify the legislature of the report on or before the first day of each regular session versus 30 days after convening.

Sec. 12. Requires the LB & A to file with the governor and the legislature its annual report summarizing audit reports on or before the first day of session versus within five days.

Sec. 13. Requires APOC to publish a directory of registered lobbyists within 15 days after session convenes. They now have 45 days.

MS. MOSS pointed out that with a session start date of February 5, and without the change made in Section 13, APOC's directory of registered lobbyists would not be delivered until half way through the session.

MS. MOSS reviewed the sectional analysis for Section 14, which read as follows [original punctuation provided]:

Sec. 14. Eliminates one of the disclosure reports for contributions made to a civic league or organization

to influence activities of a legislature. The report is currently due on February 10th which most likely will be close to the first day of session.

MS. MOSS said Brooke Miles, the director of APOC, told her APOC has not figured out a way to implement the current statute, and she noted that there is an amendment in the committee packet, upon the recommendation of Ms. Miles, which would repeal that statute.

[8:28:48 AM](#)

MS. MILES reviewed the remaining portion of the sectional analysis, covering Sections 15-23, which read as follows [original punctuation provided]:

Sec. 15. This section gives the governor an extra 30 days to present to the legislature the annual operating, capital, and mental health trust budget bills. The deadline is moved from December 15th to January 15th.

Sec. 16. Moves the deadline for the governor's budget workbook to the first Monday in February versus the first Monday in January.

Sec.17. The governor's request for supplemental appropriations must be provided to the legislature by the fifth day of session versus 30th day and the governor's budget amendments must be submitted by the 15th day versus the 45th day.

Sec.18. Requires LB & A to prepare a report of fees collected and recommended fee adjustments of state agencies and provide it to the legislature by the fifth day of session versus 30 days.

Sec.19. Requires DNR to give notice to the legislature within five days from convening that a report reflecting all money deposited to the State Land Disposal Income Fund for the prior fiscal year is available. They currently have until the 30th day.

Sec.20. Reduces from 30 to five days after convening the deadline for DNR to submit a summary of all "cooperative resource management or development agreements" to the legislature.

Sec. 21. Requires governor to submit to the legislature within 15 days from convening the names of persons appointed to a position or membership who have not been confirmed by the legislature and persons to be appointed to fill a position or membership for a term that will expire on or before March 1 during that session. Current provides for 30 days. It also instructs the governor to immediately submit the name of someone appointed after the first 15 days by while the legislature is in regular session.

Sec. 22. The term of office beginning on the second Monday of February for a member of the legislature first applies to legislators elected during 2008.

Sec. 23. This legislation has an effective date of January 1, 2008.

[8:32:07 AM](#)

JOHN BOUCHER, Senior Economist, Office of the Director, Office of Management & Budget (OMB), Office of the Governor, told the committee that he is a policy analyst. He said OMB thinks that the change in Section 15 is unnecessary. He said it is the opinion of OMB that the December 15 budget is a preliminary one, and that that version of the budget will inevitably be amended by the statutory deadline. He said, "While it could be argued that there's a potential benefit of having 30 extra days to prepare or ... collect information for the December budget, it's our assessment that it would be unlikely that this would prevent an amended budget occurring." He continued:

Postponing the first budget submittal until January 15, while keeping the current deadline for the budget amendments, significantly compresses the amount of time available to prepare an amended budget from about five to six weeks. If we kept the December 15 budget deadline, we'd have about nine to ten weeks to prepare that. And it's currently our assessment at this time that we need that time.

MR. BOUCHER noted that many of the governor's appointees were not "on board" by December 15. Furthermore, he said there are statutory "and other" mechanisms currently in place to support the December 15 deadline. He suggested OMB's preference would

be to have a couple years' experience using a regular budget cycle with a later start date for a session, and then revisit the issue as to January 15 would be a good budget deadline.

MR. BOUCHER concluded by noting that if all the budget-related date changes are dependent upon moving the session back 30 days - if the end result is a compressed time to prepare the budget - than that would concern OMB.

[8:35:37 AM](#)

MR. BOUCHER, in response to a question from Chair Lynn regarding a later start date for session, said he thinks the bill is headed in the right direction because of the timing of the revenue forecast. He said he thinks it would be ill-advised to move the Spring forecast up 30 days. He stated, "... With the price of oil the way it is, everyone would like the best information ... possible." He said he thinks that's the reason the revenue deadlines are set the way they currently are.

MR. BOUCHER, in response to Representative Coghill, offered his understanding that the Spring forecast was timed to be closer to the end of both the fiscal year and the session.

[8:37:05 AM](#)

REPRESENTATIVE GRUENBERG said the House Special Committee on Ways and Means is dealing with the issue shown in Section 16, lines 9-14, which read as follows:

***Sec. 16.** AS 37.07.040(7) is amended to read:

(7) provide the legislative finance division with an advance copy of the governor's budget workbooks by the first Monday in **February** [JANUARY] of each year [, EXCEPT THAT FOLLOWING A GUBERNATORIAL ELECTION YEAR THE ADVANCE COPY SHALL BE PROVIDED BY THE SECOND MONDAY IN JANUARY];

REPRESENTATIVE GRUENBERG asked Mr. Boucher if he thinks the language to be deleted on lines 12-14 would affect the ability of a new administration to prepare an adequate budget.

[8:39:25 AM](#)

MR. BOUCHER responded:

If we do keep the December 15 deadline, then I think ... [paragraph] (7) could more or less stay intact - it would not need to be amended - because we would have the budget in place and we could provide that.

... Going back to what I said previously: Whether the budget deadline is December 15 or January 15, I think a new administration is handicapped under either scenario. And I do believe that the best result is to give the new administration adequate time to prepare an amended budget, rather than coming in [and] having to do a quick budget, so to speak, to meet a deadline, and potentially having expectations set higher because ... it is supposedly their budget.

[8:41:42 AM](#)

REPRESENTATIVE GRUENBERG asked Ms. Moss if the various sections in the bill that will affect different departments have been "vetted with those departments."

[8:42:08 AM](#)

MS. MOSS said that has not been done with every single department. However, she said the sponsor worked with the Legislative Liaison Office. She pointed out that there is "a zero fiscal note from all departments."

[8:43:01 AM](#)

REPRESENTATIVE COGHILL, regarding Section 3, posited that starting session on the second Monday in February would give the legislature time to "do a little bit of discovery," move the session closer to the spring forecast, and put the session into more months with typically better weather. He said the big question is whether or not the legislature wants to have its elected officials in limbo from November to February.

[8:44:18 AM](#)

CHAIR LYNN said this is a matter that concerns him. He explained that the person newly elected in November cannot do anything until February, while the legislator on his/her way out is a lame duck in November and December.

REPRESENTATIVE COGHILL interjected, "But still [authoritative]."

CHAIR LYNN concurred.

REPRESENTATIVE COGHILL said Representative Roses had brought up the possibility of calling into special session those who are the lame ducks. He added, "It gives you a month for a possible scenario where you could put those who have been elected by their ... citizenry to be ineffective under some scenarios."

CHAIR LYNN remarked that being called into a special session after every election, but before the new session, would mean the legislature ends up meeting for 120 days. He indicated that there has been precedent on this.

REPRESENTATIVE COGHILL noted that legislators cannot be sworn in until they have convened.

8:46:12 AM

REPRESENTATIVE ROSES pointed out that the initiative clearly states that the 90 days must be consecutive. He said that is unfortunate, because without that stipulation the legislature could convene in January and take a break in the middle, which would allow time during the annual Energy Council and Easter break. He said that is the unfortunate part of initiatives. He explained, "Part of doing a bill is that you have these discussions and you can vet out the unintended consequences. But the voters have spoken, and it appears we have to ... at least abide by what's there." He stated that it doesn't matter to him when the legislature convenes, as long as it gets its work done.

8:47:51 AM

REPRESENTATIVE GRUENBERG said according to statute, the term of a Representative is two years and the term of a Senator is four years. He deduced:

The Twenty-Fifth [Alaska] State Legislature will ... be out of office on the third Monday in January in 2009. The Twenty-Sixth [Alaska State] Legislature won't convene until the second Monday in February. That leaves the state without a legislature for several weeks, and I think that that violates ... Article 2, Section 3.

REPRESENTATIVE GRUENBERG said he would like the director of Legislative Legal and Research Services, Tamara Cook, to review the matter.

[8:49:12 AM](#)

MS. MOSS proffered, "That same section of the constitution says that their terms begin on the fourth Monday of January following the election, unless otherwise provided by law, so that can be fixed by statute."

REPRESENTATIVE GRUENBERG responded that it is not a question of when the term begins, but rather the amount of time legislators are in office. He specified that there would be a gap between the middle of January through the middle of February.

[8:50:12 AM](#)

REPRESENTATIVE JOHNSON asked if it would be possible to swear in legislators on January 2 and wait to convene session until February. In response to a comment by Chair Lynn, he said judges swear people in all the time. He said that idea would at least cover a special session if it were called January 1.

[8:51:15 AM](#)

REPRESENTATIVE JOHANSEN expressed appreciation for Representative Gruenberg's comments. He agreed that there can be problems implementing citizen initiatives, which he said is "exactly why we're capable of amending" them. He emphasized how concerned he is about the lag time between legislators being elected, sworn in, and the start of session. He said he is familiar with what it feels like to sit around and wait, because he was elected in the primary and had nobody running against him in the general election.

[8:52:41 AM](#)

REPRESENTATIVE GRUENBERG, regarding Representative Johnson's comment about swearing legislators in early, said doing so can be unconstitutional because there would end up being two different groups of legislators in office simultaneously.

REPRESENTATIVE JOHNSON explained that he had used January 1 as an example, but it could be another date certain that worked out.

[8:53:43 AM](#)

REPRESENTATIVE COGHILL noted that the Alaska State Constitution stipulates that the legislature shall convene every year; it only gives the authority to change the day and the month. He said he was referring to Article 2, Section 8. He said, "You cannot have officers [and] you cannot swear anybody in until you've actually convened." He said he would task his staff to get an opinion from Tamara Cook on the issue. At this point, it is expected that incoming legislators will be sworn in on the fourth Monday in January, and most [outgoing] legislators would expect that their term would end at that point, unless otherwise notified.

CHAIR LYNN thanked Representative Gruenberg for bringing the issue to the everyone's attention.

[8:56:31 AM](#)

REPRESENTATIVE GRUENBERG said the bill has urgency, because the legislature must make plans this year to be ready for what it must do next year. It is, however, not as easy as it looks to do so, and there are constitutional issues involved. He cited [the last sentence of] Article 2, Section 8 of the Alaska State Constitution, which read:

The legislature shall adopt as part of the uniform rules of procedure deadlines for scheduling session work not inconsistent with provisions controlling the length of the session.

REPRESENTATIVE GRUENBERG said he does not know if the legislature must change any of its uniform rules to meet that constitutional question. He recommended looking at the entire bill to see if there are any constitutional issues that need to be addressed.

[8:58:19 AM](#)

CHAIR LYNN asked if those issues should be searched for by the House Judiciary Standing Committee.

[8:58:35 AM](#)

REPRESENTATIVE GRUENBERG suggested that the House State Affairs Standing Committee do the work.

CHAIR LYNN concurred.

[8:59:13 AM](#)

REPRESENTATIVE ROSES suggested the bill may need work by a subcommittee.

CHAIR LYNN said he would not be opposed to that idea.

[8:59:56 AM](#)

REPRESENTATIVE DOLL concurred with [Representative Rose's suggestion to form a subcommittee].

[9:00:23 AM](#)

REPRESENTATIVE COGHILL said he does not think a subcommittee is necessary. He named the policy calls the committee must make: the date session should start and whether or not a bill should die if it doesn't pass the first house. The other issues, he said, will fall into place. At this point, he said, the only Uniform Rules change that he anticipates would be in relation to notification of bills. He recommended working through one 90-day session first to "see where the tension lies." He said another issue to consider is how many days to give the governor to bring an amended budget to the legislature, and he recommended 30.

[9:03:00 AM](#)

REPRESENTATIVE GRUENBERG said Representative Roses' suggestion to form a subcommittee may be good idea. However, he proposed an alternative to that idea would be to schedule extra time for the full committee to address the bill.

CHAIR LYNN indicated that the public, as well as legislators, will be affected by a 90-day session.

[9:04:30 AM](#)

REPRESENTATIVE COGHILL reviewed some of the questions that the committee needed to address, including focusing on the time between election and being sworn in and what would happen if a special session were to be called. He reiterated that he would get a legal opinion.

[9:05:12 AM](#)

CHAIR LYNN said he would hold comment on Section 3 for the moment.

REPRESENTATIVE GRUENBERG stated that he hopes Chair Lynn will be receptive to amendments on all parts of the bill, even if the committee moves forward with its study of it.

REPRESENTATIVE GRUENBERG, in relation to Section 4 of the bill, cited Article 2, [Section 8], which read as follows [original punctuation provided]:

SECTION 8. Regular Sessions. The legislature shall convene in regular session each year on the fourth Monday in January, but the month and day may be changed by law. The legislature shall adjourn from regular session no later than one hundred twenty consecutive calendar days from the date it convenes except that a regular session may be extended once for up to ten consecutive calendar days. An extension of the regular session requires the affirmative vote of at least two-thirds of the membership of each house of the legislature. The legislature shall adopt as part of the uniform rules of procedure deadlines for scheduling session work not inconsistent with provisions controlling the length of the session.

[9:07:16 AM](#)

CHAIR LYNN directed attention to Section 5.

[9:07:28 AM](#)

REPRESENTATIVE COGHILL said he does not see any redeeming value in Section 5 at this point.

[9:08:07 AM](#)

REPRESENTATIVE COGHILL moved to adopt Amendment 1, as follows:

On page 3, lines 3-8:

Delete all material

REPRESENTATIVE GRUENBERG said he does not recall the legislature having adopted the Uniform Rules, and he suggested that a motion needed to be made on the [House] floor.

REPRESENTATIVE COGHILL responded, "I've made the motion this year, and every year, at the beginning of the convening of each session, it is made."

[9:09:07 AM](#)

CHAIR LYNN [asked if there was any objection] to Amendment 1. There being none, it was so ordered.

[9:09:35 AM](#)

REPRESENTATIVE COGHILL said he thinks Section 6 is necessary. He recommended that discussion on Section 7 be held until the policy call is made on when to start the session.

CHAIR LYNN opened discussion on Section 8.

[9:10:31 AM](#)

REPRESENTATIVE COGHILL moved to adopt Amendment 2, which read as follows [original punctuation provided]:

Page 4, lines 6-10:

Delete all material

There being no objection, Amendment 2 was adopted.

[9:11:06 AM](#)

REPRESENTATIVE COGHILL spoke in support of Sections 9 and 10 of the bill.

CHAIR LYNN ascertained that the committee had no issue with Sections 11-13.

[9:12:54 AM](#)

REPRESENTATIVE COGHILL reminded the committee that Ms. Miles had suggested the need to amend Section 14. He mentioned [Amendment 3], which read as follows [original punctuation provided]:

Page 6, lines 11-20:

Delete all material

Page 9, line 9, after the words "Sec.23.":

Insert:

AS24.45.116 is repealed.

Renumbered "This Act takes effect January 1, 2008." as
Sec.24.

[9:13:23 AM](#)

MS. MOSS reiterated her explanation regarding the practices of APOC in relation to Section 14.

[9:14:00 AM](#)

[Amendment 3 was treated as moved for adoption.]

REPRESENTATIVE GRUENBERG said he does not have any problem with Amendment 3, except for the language on the sixth line of the amendment, which "deals with the repealer of the current AS 24.45.116." He said that is substantive.

REPRESENTATIVE GRUENBERG said he would like to see the language "AS 24.45.116 is repealed." removed from Amendment 3.

[9:14:37 AM](#)

REPRESENTATIVE COGHILL said he would have no objection to that.

MS. MOSS commented that to be clear, lines [4] through 7 [as numbered on Amendment 3] should be deleted.

REPRESENTATIVE GRUENBERG moved [to adopt Amendment 1 to Amendment 3, to delete lines 4 through 7, as numbered on Amendment 3].

[Amendment 1 to Amendment 3 was treated as adopted.]

[9:15:51 AM](#)

CHAIR LYNN asked if there was any objection to Amendment 3, as amended. There being none, it was so ordered. The adopted Amendment 3, as amended, read thus [original punctuation provided]:

Page 6, lines 11-20:

Delete all material

9:16:22 AM

REPRESENTATIVE COGHILL, regarding Section 15, said the earlier the administration can put together the budget, the better for all concerned.

REPRESENTATIVE COGHILL moved to adopt Amendment 4 to delete Section 15 from the bill.

REPRESENTATIVE GRUENBERG recollected that Mr. Boucher had suggested that both Sections 15 and 16 be deleted.

REPRESENTATIVE COGHILL said he would like any motion to delete Section 16 to be made separately, because he said he thinks "they are separate discussions." He explained that Section 16 would be affected by the as yet undecided start date of the legislature, thus discussion of it should be delayed.

REPRESENTATIVE GRUENBERG concurred.

CHAIR LYNN said, "So, we'll leave that go for now." He ascertained that the committee had no issue with Sections 17 and 18.

9:18:35 AM

REPRESENTATIVE COGHILL said Section 19 would be affected by the start date of session. He stated support of Section 20, which he said would not be affected by the start date. He said that although Section 21 may be affected by the start date, he supports requiring the governor to present appointees names as soon as possible and hopes that the governor would agree with the 15-day deadline proposed in that section. He indicated that Section 22 would encompass the previously discussed issue regarding the legality of shifting dates between one legislature and another.

9:20:41 AM

REPRESENTATIVE LYNN said he thinks Section 23, relating to the effective date of the bill, needs to remain in the bill.

9:20:54 AM

REPRESENTATIVE COGHILL said he will have a committee substitute drafted as soon as possible and procure the previously mentioned legal opinion.

[9:21:36 AM](#)

MS. MOSS, returning to a prior question asked by Representative Johnson, stated that the rule related to convening and swearing in is Rule Number One of Uniform Rules.

[HB 171 was heard and held.]

HJR 6-CONST. AM: ELECTED ATTORNEY GENERAL

[9:21:54 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE JOINT RESOLUTION NO. 6, Proposing amendments to the Constitution of the State of Alaska relating to the office of attorney general.

The committee took an at-ease from [9:22:20 AM](#) to [9:23:18 AM](#).

[9:23:34 AM](#)

REPRESENTATIVE HARRY CRAWFORD, Alaska State Legislature, introduced HJR 6 as prime sponsor. He stated that he does not take making changes to the constitution of the state lightly. He proposed that HJR 6 is based upon the philosophical question of whether or not the attorney general of the state should be the governor's lawyer or the people's top lawyer. He stated his belief that the attorney general should be the top [arbiter] of law in the state for the people. He related that there have been attorneys general whose opinions match that of the governor. Furthermore, he said, there have been times when the same attorney general has served more than one governor and has still changed his/her opinion to match that of the governor.

REPRESENTATIVE CRAWFORD reported that 43 of the United States have elected attorneys general, 5 states have appointed ones, and the supreme court of Maine and Tennessee elect their attorneys general. He stated his belief that the people should have the right to decide who their attorney general should be.

[9:26:13 AM](#)

REPRESENTATIVE CRAWFORD, in response to Chair Lynn, indicated that if HJR 6 were to pass, the governor would still turn to the attorney general for advice. If the governor's and attorney general's philosophies differ, he said, the Alaska Supreme Court would be the final [arbiter]. He stated his belief that a governor will be more honest in the policies he/she puts forth when he/she has to get an opinion from an attorney general that is not beholden to them.

[9:28:12 AM](#)

REPRESENTATIVE JOHNSON asked if any states have a system wherein they have two elected attorney generals - one Republican and one Democrat - and when the governor is elected, the attorney general from the political party matching that of the governor gets the position.

[9:28:52 AM](#)

REPRESENTATIVE CRAWFORD offered his understanding that that practice has been made illegal.

REPRESENTATIVE JOHNSON said he likes the idea of having an elected attorney general, but would like to keep the philosophical bent the same to avoid law suits between a governor and attorney general who are constantly at odds with each other.

REPRESENTATIVE CRAWFORD said he would like to see some tension between the attorney general and the governor; he would not like to see them in lockstep.

CHAIR LYNN remarked, "Nor would we want to see them opposed on every issue in the book."

REPRESENTATIVE CRAWFORD said he wouldn't want that to happen either. He stated, "An office holder is only as good as that person. I don't know how we set up a system that weeds out people that are just completely partisan for partisan's sake."

[9:30:53 AM](#)

REPRESENTATIVE ROSES said human error is the same whether made by an appointed attorney general or an elected one. He said he will need more convincing as to how an elected attorney general would serve in a better capacity than one appointed. He stated, "An election is won by somebody that does a better job of

campaigning than somebody else; it doesn't necessarily mean they're going to be better at the job."

[9:32:22 AM](#)

CHAIR LYNN said if he were governor, he would want an attorney general who was in his "same philosophical ball park."

[9:32:46 AM](#)

REPRESENTATIVE ROSES said he thinks electing an attorney general makes the situation more political, not less.

[9:33:02 AM](#)

REPRESENTATIVE CRAWFORD said if he made that statement, he had not meant to. He clarified that the attorney general would be the people's representative and answerable "more to the people than just to the governor." Currently, the AG is answerable to the governor and can be fired at any moment if he/she doesn't answer to the governor. He said he knows it will be an uphill battle to change the constitution, with a required two-thirds majority vote of the legislature and a popular vote of the people. In response to a question from Representative Roses, he said to his knowledge there has never been a time when the legislature has failed to confirm an attorney general brought forward by the governor. He said it could happen, and under such circumstances "we give the governor his cabinet or her cabinet, whichever the case may be."

CHAIR LYNN said, "Well, we do have to confirm it. We're just going through this process now, so we don't have to confirm."

[9:35:55 AM](#)

REPRESENTATIVE COGHILL stated that the reason to have an appointed attorney general is to give our executive branch as much authority as is practically possible. He said when Alaska became a state, it had to petition federal government to control its state issues, and so, the thinking was there was a need for a strong executive branch in order to impose the state's views. The trade-off was that the attorney general was not accountable to the people. He suggested there are two questions to ask: Whether it has been effective to amalgamate that power in the executive branch; and whether or not the people have been served well. He said he does not know that the people have been ill-served; however, he said he is not convinced that "our authority

has been well exerted from the executive branch." He said he can think of one time when there was misuse of authority such that he had thought at the time that the attorney general should be elected. He asked Representative Crawford to convince him of the need for HJR 6.

[9:39:18 AM](#)

REPRESENTATIVE CRAWFORD said he thought long and hard about examples he could bring to the committee; however, the problem is that examples that he thinks show that the state has been totally ill-served may be viewed by others as an example of the state having been well served. He restated his belief that an attorney general popularly elected is more accountable to the people.

[9:41:15 AM](#)

REPRESENTATIVE COGHILL said the people of Alaska need to be able to voice their complaints.

[9:42:14 AM](#)

CHAIR LYNN asked Representative Crawford if his arguments would also apply to the United States Supreme Court. In response to Representative Crawford, he clarified that there is a need to take politics "out of it" as much as possible, but those who are elected have to campaign. He questioned whether politics would affect the decision that an elected attorney general would give to the governor or the people.

REPRESENTATIVE CRAWFORD said the 43 states that elect their attorneys general seem to be satisfied with that method. He stated that politics is just something that must be dealt with on a daily basis, and he related his belief that an attorney general could deal with the same politics that legislators do. He said there are many people qualified to be an attorney general that may never get appointed by a governor because they might be too independent. In response to Chair Lynn, he said he believes the state superintendent of education should be an elected position, but he said that is another discussion to be held at a later date.

[9:46:03 AM](#)

REPRESENTATIVE COGHILL said he would get copies of the minutes from the original Alaska Constitutional Convention to share with the committee.

[9:46:20 AM](#)

REPRESENTATIVE DOLL said she thinks HJR 6 is a good issue to address. She asked if the attorneys general that run for election in the various 43 states run on party lines.

[9:46:46 AM](#)

REPRESENTATIVE CRAWFORD said attorneys general in those states don't have to politicize their campaigns, but they can if they wish. In response to a follow-up question from Representative Doll, he said the proposed resolution would set up a four-year term for each attorney general. He said he has requested an amendment to set a two-term limit, the same as that of the governor. The attorney general could sit out for a term after two consecutive terms and then once again be eligible to run.

[9:48:30 AM](#)

REPRESENTATIVE GRUENBERG directed attention to page 1, line 10, of HJR 6, which proposes to delete "[SECRETARY OF STATE]" and replace it with "lieutenant governor". He said he is wondering if that needs to be done in other parts of the constitution. Representative Gruenberg stated that an important question to ask is: "Whom does the attorney general represent? Does the attorney general represent the governor or the best interest of the state, of people, whoever?" He said the answer to that question is key to deciding whether or not to adopt HJR 6. He suggested that the Alaska Bar Association look at that question. He explained, "Because it's axiomatic in the profession; you can't represent two clients." He offered an example. If the legislature were to decide that there is a conflict, he said, it should pass a specific statute addressing the ethical responsibilities of the attorney general. He mentioned other questions, such as who should make the decision whether or not to litigate or appeal and what the guidelines should be. He said, "... I think this puts the legislature squarely in the role of making that decision, and I would like this committee to consider carefully whether there is a conflict of interest and, if so, how do we best deal with it?"

[9:54:36 AM](#)

REPRESENTATIVE CRAWFORD responded:

I believe that Representative Gruenberg has ... hit the nail squarely on the head as to what the problem is. ... I perceive there to be a conflict of interest: Whenever the attorney general owes his position to the governor and can be fired at any moment at the pleasure of the governor, then I believe that they are more accountable to the governor than they are to the people and good law.

As far as having the bar association look at this, I don't see where their authority to look at this comes from. I believe that this is a question for the legislature and the general public to decide.

I believe that there is an inherent conflict the way it's set up today, and I believe that although it doesn't guarantee that you'll get a good attorney general every time, what it does guarantee is that you get an independent attorney general.

REPRESENTATIVE CRAWFORD, regarding the idea that the office of attorney general may be politicized and used as a stepping stone to run for governor or United States Senator or Representative, offered examples of that happening.

[9:57:24 AM](#)

REPRESENTATIVE ROSES said he agrees with much of what Representative Gruenberg said, with the exception of getting the opinion of the Alaska Bar Association. In terms of addressing some of the conflicts, he said he thinks that needs to be done whether the attorney general is elected or appointed. One conflict, he suggested, may be the need for an elected attorney general to run for re-election while still serving office. He said there may be a potential for ethical conflicts. He said, "We have a confirmation process, and if I'm not mistaken do we not also have a process where if we think somebody's doing a pretty poor job that we could work towards removing them from that office?"

[9:59:10 AM](#)

REPRESENTATIVE CRAWFORD said he would leave it up to the committee's wisdom to determine whether to impose term limits in a way that would not make it necessary for the attorney general

to campaign while in office. He said, "The way it's set up right now, the attorney general can be the governor's flunky. I'm not saying that's happened."

[10:00:19 AM](#)

REPRESENTATIVE ROSES said the Alaska State Constitution very deliberately gives a tremendous amount of power to the governor. He said he is not certain any other state has done the same. He said he thinks the founding fathers made the right decision.

CHAIR LYNN questioned whether HJR 6, in combination with the upcoming change to a 90-day session would give extra power to the governor.

[10:01:12 AM](#)

REPRESENTATIVE CRAWFORD said he believes Alaska has outgrown the need for "super powerful governorship." He said he believes in giving more power to the people.

[10:02:29 AM](#)

REPRESENTATIVE DOLL said she is impressed that 43 states "found this very important and have put it into effect." She asked how much such an election would cost.

[10:02:55 AM](#)

REPRESENTATIVE CRAWFORD said he would have to get back to Representative Doll with that information. He noted that an election for attorney general would not be held outside other elections, thus "it would be partly borne in the cost of the other elections that are being held at the same time."

[10:03:39 AM](#)

CHAIR LYNN announced that HJR 6 was heard and held.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:04:25 AM](#).