

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

January 22, 2008
8:13 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

MEMBERS ABSENT

Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 305

"An Act relating to campaign fund raising by a legislator, legislative employee, or candidate for election to the legislature during a regular or special legislative session."

- MOVED CSHB 305(STA) OUT OF COMMITTEE

HOUSE BILL NO. 313

"An Act providing for and relating to the issuance of general obligation bonds for the purpose of paying the cost of a scientific crime detection laboratory; and providing for an effective date."

- MOVED HB 313 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 305

SHORT TITLE: CAMPAIGN FUND RAISING DURING SESSIONS

SPONSOR(S): REPRESENTATIVE(S) MEYER

01/11/08	(H)	PREFILE RELEASED 1/11/08
01/15/08	(H)	READ THE FIRST TIME - REFERRALS
01/15/08	(H)	STA
01/22/08	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 313

SHORT TITLE: G.O. BONDS FOR CRIME LAB
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/16/08 (H) READ THE FIRST TIME - REFERRALS
01/16/08 (H) STA, FIN
01/22/08 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE KEVIN MEYER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 305 as prime sponsor.

MIKE PAWLOWSKI, Staff
Representative Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of Representative Meyer, prime sponsor, during the hearing on HB 305.

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

POSITION STATEMENT: Answered questions during the hearing on HB 305.

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

POSITION STATEMENT: Answered questions during the hearing on HB 305.

JOHN GLASS, Deputy Commissioner
Office of the Commissioner
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Presented HB 313 on behalf of the House Rules Committee, sponsor by request of the governor.

JERRY BURNETT, Director
Division of Administrative Services
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 313.

ACTION NARRATIVE

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at [8:13:01 AM](#). Representatives Roses, Coghill, Johansen, Johnson, Doll, and Lynn were present at the call to order.

HB 305-CAMPAIGN FUND RAISING DURING SESSIONS

[8:13:34 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE BILL NO. 305, "An Act relating to campaign fund raising by a legislator, legislative employee, or candidate for election to the legislature during a regular or special legislative session."

[8:13:57 AM](#)

REPRESENTATIVE KEVIN MEYER, Alaska State Legislature, presented HB 305 as prime sponsor. He said the law that prohibits legislators from raising money during service in office should extend to federal and local law. The proposed legislation would make the laws uniform. He stated that there is not an effective date in the bill. In response to a question Chair Lynn, he confirmed that unless the proposed bill is amended to include an effective date, no one currently in the legislature would be affected. Representative Meyer said the bill is essentially simple, but may look complicated because of its impact.

[8:17:20 AM](#)

MIKE PAWLOWSKI, Staff to Representative Kevin Meyer, Alaska State Legislature, testified on behalf of Representative Meyer, prime sponsor, during the hearing on HB 305. He noted that language was added on page 1, line 14, which would allow for session or special session to be held outside of Juneau.

[8:17:59 AM](#)

REPRESENTATIVE ROSES offered his understanding that current statute prohibits any candidate from campaigning during the legislative session, not just incumbents. He noted that there is information pertaining to a State v. ACLU lawsuit in the committee packet. He said he thinks Mr. Pawlowski has said that because the lawsuit speaks to the constitutional rights of an

individual, "the ruling has been that we've sort of overlooked what statute is in favor of this lawsuit."

8:18:57 AM

REPRESENTATIVE MEYER told Representative Roses he is correct that "we've been overlooking that for non-legislators."

8:19:35 AM

MR. PAWLOWSKI referred to a memorandum from Legislative Legal and Research Services, dated April 3, 1999, which addresses the Ethics Act. He stated that the Ethics Act prohibition was acceptable because it did not apply to non-incumbents. He continued:

We noticed in reading the existing statute, that the APOC provision, which is separate from the Ethics Code, does apply to both.

MR. PAWLOWSKI, in response to a comment from Representative Roses, regarding campaigning, stated that APOC statute applies only to fundraising. He concluded, "So, a non-incumbent could perform any number of campaign activities, but they could not raise money while the legislature's in session, unless it's within 90 days and outside of the capital."

8:20:59 AM

BROOK MILES, Executive Director, Alaska Public Offices Commission (APOC), answered questions during the hearing on HB 305. She stated that APOC does not enforce the provisions of AS 15.13.072(d), because, in its decision, the Alaska Supreme Court, although not striking this section from statute, nullified it by striking a provision that was currently in AS 15.13.074(c), which called for non-incumbents and incumbents to have "a legislative time out." She said it was found that there was no "state-compelling" reason for the limitation; therefore, it was "left to the Select Committee on Legislative Ethics where it is appropriate for incumbents." She concluded, "So, I'd have to tell you, under advice of the attorney general, it's likely that even if this bill is passed, the commission will still not be enforcing that against non-incumbent candidates."

CHAIR LYNN asked, "Well, if they're not enforcing it, should it be there?"

MS. MILES replied:

It shouldn't be there. Actually, in past years, ... APOC has suggested that because it's unenforceable, the provision of AS 15.13.072(d) should be deleted from the statute. The last time the legislature was set to do that, a huge controversy arose, in that there was interest in the members that if you couldn't apply it to incumbents that legislators should be able to campaign as much as they wanted to during session, too, and there was a move to strike it from the legislative ethics provisions, which of course, then caused great controversy and things just stalled.

[8:22:41 AM](#)

CHAIR LYNN shared his understanding that while a [non-incumbent] running for office has the advantage of raising money through campaigning, the incumbent has the advantage of being an incumbent, and those factors balance each other out.

MS. MILES replied that that has also been her understanding. She reported that data does not show that a non-incumbent gains a significant edge during the time that an incumbent is spending in session. Notwithstanding that, she said she thinks the added language previously highlighted by Mr. Pawlowski regarding the location in which the legislature is convened in a regular or special session is "probably very positive."

[8:24:07 AM](#)

JOYCE ANDERSON, Administrator, Select Committee on Legislative Ethics ("the Ethics Committee"), said the committee has discussed campaigning during a regular or special session and is "very much in agreement and made a recommendation regarding the other change that's in the law." She confirmed the previous statement of Ms. Miles that the Ethics Committee does enforce AS 24.60.031, regarding legislators not campaigning during a session. She said there has been past discussion regarding campaigning by legislators for any office, and although the committee has not officially come out with an endorsement, its members feel that there should not be any campaigning.

[8:25:42 AM](#)

REPRESENTATIVE ROSES commented that Ms. Anderson covered the topic well, and, as a member of the Ethics Committee, he agrees

that a majority of the committee members "would like to see it covering all offices and not just one here currently listed."

[8:26:01 AM](#)

REPRESENTATIVE DOLL asked how other states handle this issue.

MS. ANDERSON replied that she does not have that information, but she said she can find out.

REPRESENTATIVE COGHILL suggested that request be fulfilled by the sponsor, rather than asking APOC or the Ethics Committee to conduct that kind of research.

[8:27:08 AM](#)

REPRESENTATIVE MEYER deferred to Mr. Pawlowski.

[8:27:32 AM](#)

MR. PAWLOWSKI offered to compile that information.

[8:27:55 AM](#)

CHAIR LYNN closed public testimony.

[8:28:02 AM](#)

REPRESENTATIVE JOHANSEN agreed with the need for the bill, but expressed concern that it is "one more place in print where the capital would be somewhere else in the state."

[8:28:50 AM](#)

REPRESENTATIVE JOHNSON moved to adopt Amendment 1, which read as follows:

Page 1, line 2, following "**session**":
Insert "**; and providing for an effective date**"

Page 2, line 4, following "**contribution**":
Insert "**for the legislator or legislative employee's own campaign**"

Page 2, line 7:
Delete "**candidate or individual**"
Insert "**legislator or legislative employee**"

Page 2, line 11, through page 3, line 7:

Delete all material and insert:

"* **Sec. 2.** AS 15.13.074 is amended by adding a new subsection to read:

(j) While the legislature is convened in a regular or special legislative session, a legislator may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election under this chapter unless

(1) it is an election in which the legislator is a candidate;

(2) the solicitation or acceptance occurs during the 90 days immediately preceding [sic] that election; and

(3) the solicitation or acceptance occurs in a place other than the capital city or a location in which the legislature is convened in a regular or special session if the location is other than the capital city.

* **Sec. 3.** AS 24.60.031(a) is amended to read:

(a) A [LEGISLATOR OR] legislative employee may not

(1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution for a campaign for municipal, state, or federal office [THE STATE LEGISLATURE]; however, a [LEGISLATOR OR] legislative employee may, except in the capital city or in the location in which the legislature is convened in regular or special session if the location is other than the capital city, solicit or accept a contribution, promise, or pledge for a campaign for municipal, state, or federal office [THE STATE LEGISLATURE] that occurs during the 90 days immediately preceding the [AN] election for that office; or

(2) accept money from an event held on a day when either house of the legislature is in regular or special session if a substantial purpose of the event is to raise money on behalf of the [MEMBER OR] legislative employee for [STATE LEGISLATIVE] political purposes; however, this paragraph does not prohibit a [LEGISLATOR OR] legislative employee from accepting money from an event held in a place other than the capital city or a location in which the legislature is convened in regular or special session if the location

is other than the capital city during the 90 days immediately preceding an election for public office in which the legislative employee is a candidate [; OR

(3) IN A CAMPAIGN FOR THE STATE LEGISLATURE, EXPEND MONEY THAT WAS RAISED ON A DAY WHEN EITHER HOUSE OF THE LEGISLATURE WAS IN A LEGISLATIVE SESSION BY OR ON BEHALF OF A LEGISLATOR UNDER A DECLARATION OF CANDIDACY OR A GENERAL LETTER OF INTENT TO BECOME A CANDIDATE FOR PUBLIC OFFICE; HOWEVER, THIS PARAGRAPH DOES NOT APPLY TO MONEY RAISED IN A PLACE OTHER THAN THE CAPITAL CITY DURING THE 90 DAYS IMMEDIATELY PRECEDING AN ELECTION].

* **Sec. 4.** AS 24.60.031 is amended by adding a new subsection to read:

(c) A legislator may not

(1) on a day when either house of the legislature is in regular or special session, solicit or accept a contribution or a promise or pledge to make a contribution

(A) for the legislator's own campaign for public office, unless the solicitation, acceptance, promise, or pledge occurs in a place other than the capital city or a location in which the legislature is convened in regular or special session if the location is other than the capital city during the 90 days immediately preceding the election in which the legislator is a candidate;

(B) for another candidate in an election for municipal, state, or federal office; or

(C) to influence a state ballot proposition or question;

(2) accept money from an event held on a day when either house of the legislature is in regular or special session if a substantial purpose of the event is to raise money on behalf of the legislator's campaign for public office; however, this paragraph does not prohibit a legislator from accepting money from an event held in a place other than the capital city or a location in which the legislature is convened in regular or special session if the location is other than the capital city during the 90 days immediately preceding an election in which the legislator is a candidate; or

(3) in a campaign for municipal, state, or federal office, expend money that was raised on a day when either house of the legislature was in a legislative session by or on behalf of a legislator

under a declaration of candidacy or a general letter of intent to become a candidate for public office; however, this paragraph does not apply to money raised in a place other than the capital city or a location in which the legislature is convened in regular or special session if the location is other than the capital city during the 90 days immediately preceding an election in which the legislator is a candidate.

* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c)."

[8:29:02 AM](#)

CHAIR LYNN objected for discussion purposes.

[8:29:09 AM](#)

REPRESENTATIVE JOHNSON spoke to Amendment 1. He stated his belief that a legislator should not be allowed to participate in a fundraising effort for another candidate for another office during session, no matter what title the candidate is pursuing. For example, he said he thinks it would be wrong if he were to assist in a fundraising effort for the mayor of his city during session. The fundraising letters would be going out to people who have brought legislation to him, and it would exercise undue influence on contributors. In response to Chair Lynn, he clarified that he does not view endorsements as falling in the same category as fundraising.

[8:31:18 AM](#)

REPRESENTATIVE DOLL noted that she attends a monthly meeting of the Democrat Party in Juneau. At the function, fundraising is done and checks are made out, although not to her. She asked how such a situation would pertain to Amendment 1.

REPRESENTATIVE JOHNSON stated that it is not his intention for Amendment 1 to affect such a situation. He said he is specifically addressing "specific fundraising events sponsored by legislators during the session, for other candidates."

REPRESENTATIVE DOLL noted that the capital city throws a Democratic Party event every February, and the purpose of the auction at the event is to serve as a fundraiser. She asked how that would be affected by Amendment 1.

REPRESENTATIVE JOHNSON said he does believe Amendment 1 pertains to that situation; it only pertains to fundraising for a specific candidate. Amendment 1 is intended to not allow a legislator to use his/her office, the name of the office, or the power of the incumbent to raise funds for another candidate or bond initiative of any kind during session. In response to a question from Chair Lynn, he said that would not include raising funds for a political party. However, he said he would not have a problem with that, because he does not believe a political candidate should be raising funds for anyone during a legislative session. He stated, "When we're in session, we should be concentrating on the business of the state, and not advancing some political agenda."

[8:35:17 AM](#)

CHAIR LYNN said he often receives requests for contributions from national offices in his political party.

REPRESENTATIVE JOHNSON said he does not think contributing a donation to a candidate is the same as putting ones name on a fundraising event.

[8:36:12 AM](#)

MS. ANDERSON stated that the Ethics Committee issued an advisory opinion in December, based on the current statute, that said that during session, legislators are not allowed to put their name, as host or co-host, on a campaign fund-raising invitation in support of a legislative candidate. Legislators are allowed to endorse the candidate, as long as their name remains off of any campaign invitation. She said they could certainly put their name on a signature advertisement that solicits a vote. She said the new language that is being proposed would make this true for federal and municipal candidates. She continued:

The only thing that isn't in here that you mentioned happens to be ... a ballot initiative. ... There have been questions in the past for the Ethics Committee regarding what type of work a legislator may do in relation to a ballot initiative, and what side is the campaigning side and what side is more the legislators' side, which is more of a policy statement ... - you're ... either ... for it or against it - and so, you're talking about more policy issues versus a campaigning aspect.

... I haven't had a chance to really look too closely at your amendment, but I think that what's in place right now would cover your concern.

MS. ANDERSON, in response to Chair Lynn, said currently a legislator is allowed on his/her own time - not using state resources - to work on an initiative, gather signatures, and conduct fundraising. If this issue were added into the proposed legislation, she observed, then the fundraising aspect would be removed from those actions that are allowable.

REPRESENTATIVE JOHNSON said that is intent of Amendment 1, to treat all elections as if they were legislative elections, in terms of the restrictions that apply.

[8:39:59 AM](#)

CHAIR LYNN asked the sponsor if he would support or oppose Amendment 1.

[8:40:08 AM](#)

REPRESENTATIVE MEYER replied that he supports the intent of Amendment 1. He said the intent of the bill is "to prohibit any of us from leveraging our offices to raise money for our own elections or elections of others." He said he had not thought much about the initiative process, but can see where someone could use his/her office to help raise money for initiatives, which he said he does not condone.

REPRESENTATIVE JOHNSON, in response to the sponsor, said language regarding 90 days is included in Amendment 1.

[8:41:16 AM](#)

MR. PAWLOWSKI pointed out language on page 2, beginning on line 28 [as numbered on the amendment], and said:

I believe this is very specific that you cannot, for another person, raise money when ... the legislature's in session, regardless of the 90 days. So, it is different than what Joyce was talking about in the Ethics Committee. Because the provision in the existing statute would allow that type of conduct within 90 days of the election.

[8:42:07 AM](#)

REPRESENTATIVE JOHNSON indicated that he may have misunderstood [the sponsor's] statement. He clarified that he does not intend to affect a candidate's ability to campaign and raise money, but does intend to affect a candidate's ability to raise money for someone else. He said he does not think that would exclude joint fundraisers, for example. He said he agrees with current law that says only a treasurer can accept money, and he would not want to see anyone using his/her incumbent office for campaigning.

REPRESENTATIVE JOHNSON noted that if Amendment 1 is adopted, the proposed legislation would have an immediate effective date.

[8:43:35 AM](#)

REPRESENTATIVE ROSES said he has no problem with an immediate effective date.

[8:44:01 AM](#)

REPRESENTATIVE COGHILL said he does have a problem with "an effective date that becomes kind of retroactive." He said there may be municipal and federal entities that have "already set things in motion."

REPRESENTATIVE JOHNSON, in response to a question from Representative Coghill, offered his understanding that [Amendment 1] would not change existing statute that says funds can be raised within 90 days of the election, as long as it is "not in the city where the session's being held."

[8:46:28 AM](#)

MR. PAWLOWSKI clarified that the 90-day rule would apply for a legislator's own campaign, but not in a situation regarding a ballot initiative or fundraising for another candidate.

[8:47:07 AM](#)

CHAIR LYNN withdrew his objection to Amendment 1.

[8:47:24 AM](#)

REPRESENTATIVE DOLL objected to Amendment 1. She said she believes it is broad, and without further study, she would not vote in favor of it.

A roll call vote was taken. Representatives Roses, Johansen, Johnson, and Lynn voted in favor of Amendment 1. Representatives Coghill and Doll voted against it. Therefore, Amendment 1 passed by a vote of 4-2.

[8:48:34 AM](#)

REPRESENTATIVE MEYER, in response to Representative Coghill, said he has not considered conforming language, but agreed that it would be good to do so.

REPRESENTATIVE COGHILL said he is still trying to figure out how to create conforming language. He said it would be wise to either challenge or agree with the court. He added, "I'm always open to challenging the court, but in this particular case I think I agree with them." He suggested that the words - "A candidate or an individual" - on page 1, line 5, could be changed to, "A legislator or a legislative employee". In response to Chair Lynn, he offered his understanding that the bill had not been referred to any other House committee. He said it could be heard in the House Rules Standing Committee.

[8:50:58 AM](#)

REPRESENTATIVE DOLL expressed concern regarding the speed at which the bill was being heard, and she stated that she would like the committee to discuss whether or not the bill should be heard by the House Judiciary Standing Committee.

[8:51:26 AM](#)

REPRESENTATIVE COGHILL said he does not know that making decisions under pressure is good reason to send the bill to another committee of referral.

[8:52:06 AM](#)

REPRESENTATIVE COGHILL moved to adopt Amendment 2, as follows:

On page 1, line 5:

Delete "A candidate or an individual"

Insert "A legislator or a legislative employee"

There being no objection, Amendment 2 was adopted.

[8:52:49 AM](#)

REPRESENTATIVE COGHILL moved Amendment 3, to strike the effective date just adopted through Amendment 1.

[8:53:10 AM](#)

REPRESENTATIVE JOHNSON objected. He said, "I think this is one of those things that may be legal, but isn't right. And any time we delay enacting ethical behavior or ethical legislation, we've done a disservice to the public."

REPRESENTATIVE ROSES pointed out that even with an effective date, the bill still has to continue through discussion of the House, then the Senate, then be signed by the governor. He continued:

... Anybody that would be affected by this piece of legislation will have plenty of notice to make sure that they don't run afoul of it by the time it becomes effective. So, if there's anybody out there campaigning now or anybody out there fundraising now or sponsoring fundraisers for other people, this certainly would give them plenty of time to make sure their name was removed from future activities or future fundraising mailers or so on.

REPRESENTATIVE ROSES concurred with Representative Johnson's statement that if there is something to be fixed, it needs to be fixed immediately, without postponing the effect of what is trying to be done.

CHAIR LYNN expressed his concern that people or entities may have acted in reliance of the law as it is today, "and then this upsets the apple cart."

REPRESENTATIVE JOHNSON said he agrees with Representative Roses' comments regarding the timing of moving the bill through, and furthermore, he indicated that another factor in the equation is that this is a 90-day session. He offered further calculations leading to the conclusion that it would be two months before people "see this legislation coming," and 180 days before it would take effect.

REPRESENTATIVE COGHILL withdrew Amendment 3.

[8:57:37 AM](#)

REPRESENTATIVE COGHILL moved to report HB 305, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 305(STA) was reported out of the House State Affairs Standing Committee.

REPRESENTATIVE MEYER said he would be considering conforming language and, if that task becomes more complicated than anticipated, would request a hearing of the bill in the House Rules Standing Committee.

The committee took an at-ease from [8:58:08 AM](#) to [9:03:11 AM](#).

HB 313-G.O. BONDS FOR CRIME LAB

[9:03:12 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 313, "An Act providing for and relating to the issuance of general obligation bonds for the purpose of paying the cost of a scientific crime detection laboratory; and providing for an effective date."

[9:03:32 AM](#)

JOHN GLASS, Deputy Commissioner, Office of the Commissioner, Department of Public Safety, presented HB 313 on behalf of the House Rules Committee, sponsor by request of the governor. He said he would explain the bill and the reason for it. Mr. Glass said the current 18,000 square foot crime lab was built in Anchorage, in 1986, and it serves six scientists and four support personnel. He offered his understanding that it was in 2006 that the legislature appropriated \$4.9 million towards a study to create a new crime lab. The department has used the money thus far to hire an architectural firm in Anchorage [Livingstone Sloane, Inc.]. He noted that the Department of Transportation & Public Facilities (DOT&PF) is on board with the project. Mr. Glass used some visual displays set up in the committee room. He said the department examined 34 parcels of land in the Municipality of Anchorage on which to develop a new crime lab and has chosen one that is a 15.3 acre parcel on Tudor Road, 2.5 blocks to the West of the current lab.

MR. GLASS relayed that the architect firm contracted with a firm and developed a plan for the size of crime lab needed, which is between 80,000-84,000 to conduct the current crime lab business. He noted that the crime lab services all the municipal and state

agencies in the state, doing finger print and latent print examinations and crime scene investigation ballistics.

MR. GLASS stated, "The governor has proposed this bill for one hundred million dollars." He noted that available to testify are representatives of the department, the architecture firm, an engineer at DOT, and a lab supervisor. Furthermore, he noted that Jerry Burnett was available to answer questions related to finance.

MR. GLASS, in response to a question from Chair Lynn, said hopefully the old lab will be refurbished and made into office space for the rest of the department, perhaps housing the office that conducts sexual offender registration and the Alcohol Beverage Control Board, as well as a couple other entities.

[9:07:08 AM](#)

REPRESENTATIVE ROSES suggested that the University of Alaska Anchorage has a need for lab space and the old crime lab could more easily be converted to that use. He asked Mr. Glass if it would cost the same amount of money to build more office space in the anticipated new building than to convert the old lab into office space.

MR. GLASS said he does not know what the exact cost would be in comparison; however, he talked about the high cost of building laboratories, because of the type of equipment that is needed in them.

REPRESENTATIVE ROSES said that is exactly why he would not want to see a lab that has already been built be turned into office space.

[9:08:13 AM](#)

MR. GLASS, in response to questions from Representative Coghill, reiterated when the current crime lab was built and that it is the only lab in the state. He added that it was 1994 when the first DNA tests were processed in the laboratory. In response to a follow-up question from Representative Coghill, he said the laboratory is short on both lab space and storage space. He said the best term to use for a lab that was built for 16 people, but now houses 41, is "compressed." He described the small working space of each scientist and stressed the importance of a sterile environment. He said, "When they're working on their studies here, and then they have to move over

here and use their computer that's sitting next to them to do that work, there is always the fear and danger of cross-contamination, which always creates a high risk when it comes time for court presentations."

MR. GLASS apologized that, due to technical difficulties, he was unable to bring the 43 photos that were just e-mailed to him the day before to show the committee pictures of the overcrowded state of the lab; however, he said he could provide them later. [Those photos were subsequently included in the committee packet.]

MR. GLASS, in response to a question from Representative Roses, confirmed that the lab does outsource its toxicology work to the state of Washington, and it hopes that the new laboratory will allow the department to do that work in house. In response to a follow-up question, he said he does not know what the percentage is of work being sent out of state. Currently, he estimated, the cost to send that work out is \$180,000 annually. Additionally, the department pays travel and expenses for those scientists in Washington who come to Alaska to testify in court.

[9:11:48 AM](#)

MR. GLASS, in response to a question from Representative Johnson, said the new building would be approximately 83,000 square feet in the hopes of avoiding compression 10 years from now. He said it is unknown what "new science" will come along in the next 20 years. For example, he said the current lab was built before scientist knew about DNA [testing].

REPRESENTATIVE JOHNSON asked if perhaps the department should consider a 90,000 square foot building, because he said he does not want the department to return with a request for an even larger building because it didn't ask for enough to begin with. He clarified that he is encouraging growth opportunity.

CHAIR LYNN observed that with increased state population comes increased crime.

[9:13:38 AM](#)

MR. GLASS assured the committee that there is room for expansion in the proposed laboratory; the current need is for approximately 50,000 square feet, and the building is designed at 83,000 square feet. Furthermore, he said the building will allow for additions to be made as needed in the future, whereas

the current lab is not suited for additions and has no room to expand, even if it could. In response to a question from Representative Johnson, he said the \$100 million needed for the facility includes all costs: laboratory, move-in costs, and new equipment.

REPRESENTATIVE JOHNSON asked, "So, we're bonding for a move?"

MR. GLASS reiterated that in the process of building the new laboratory, the present equipment will be moved into it.

[9:15:14 AM](#)

MR. GLASS, in response to Representative Doll, confirmed that there is only one medical examiner in the state; however, he offered his understanding that that position is within the Department of Health & Social Services. In response to a follow-up question from Representative Doll, he said he does not think the department has asked for a lab in the past. He stated, "I think this is part of the process going back to 2006, when the initial appropriation for the study and the design ... was made, I think it's the only request." He said it is past time for the request.

[9:16:12 AM](#)

REPRESENTATIVE COGHILL told Representative Johnson that the need is great in all areas, and expanding one area overloads others. He said, "The medical examiner is one example of those kind of bottlenecks in our system right now." He expressed his readiness to pass the bill out of committee.

[9:17:12 AM](#)

CHAIR LYNN said he thinks "all of us" strongly support law enforcement. It does not do any good to arrest someone and not be able to prosecute him/her, and part of the process leading to a conviction is to have evidence that is fair to all parties.

[9:17:32 AM](#)

REPRESENTATIVE JOHNSON stated that he is opposed to bonding; therefore, although he supports the project 100 percent, he does not want to "use a credit card when we could pay for it with cash." He stated:

I understand that we've got a huge account that's making money, and everything gets rolled into the permanent fund or the constitutional budget reserve, and we save it there, and that's generating revenue. That doesn't cut it for me. Unless we specifically offset this hundred million dollars somewhere, that we can pay those bonds off at a reduced rate, then I'm not comfortable with bonding and indebting our future for a project that we could pay for today.

9:19:40 AM

JERRY BURNETT, Director, Division of Administrative Services, Department of Revenue, answered questions during the hearing on HB 313. In response to Representative Johnson's remarks, he said that in the budget proposed this year by the governor, there are savings that total billions of dollars. He mentioned the transportation endowment and close to a billion dollars in additional direct deposits to the retirement funds. He noted that under the Internal Revenue Service (IRS) code, if [the state] specifically put a hundred [million] dollars into an account that earned more than the interest on the bonds, it would have to pay that difference to the IRS.

MR. BURNETT continued:

By putting the money in other savings accounts, we're able to borrow this money; the last [general obligation (GO)] debt that went in the State of Alaska in 2003, the money was borrowed at 3.84 percent. Today, if you were borrowing this money, it's somewhere in the 4.5 percent range. The savings accounts that are being proposed to have money added to them are for a different purpose than off-setting this directly, but they do have that effect. And those savings accounts - if you put money in the retirement fund since the history of [the Public Employees Retirement System (PERS)] and [the Teacher's Retirement System (TRS)] - they've earned over 9 percent. ... They earned 18.8 percent in the last fiscal year. Today they probably lost some money.

But you have an indirect offset, and it's a matter of balancing through the entire spending plan: debt, savings, and general fund appropriations. And I think this actually does a very good job of that.

REPRESENTATIVE JOHNSON said he understands; however, he stated that part of his concern is that "this should be in the capital budget." He continued:

To stand up and say that the capital budget is cut when you're adding \$250 million to it, to me is disingenuous and a little inaccurate. ... When we look at this, ... we should understand that we're adding \$100 million to the capital budget. And ... that's my point. I understand the offset, and if your logic held true, we should put every penny in the bank and offset everything we do by generating that investment and just start a big fund that we run everything off of. So, it doesn't hold true all the way across the board. I know you're thinking it's maybe a good idea, and it may be, but ... I am not supportive of bonding our future away."

REPRESENTATIVE JOHNSON said economic indicators show that the economy will most likely get worse, so he said there is gambling going on with money that the state has at present. In response to a question from the chair, he said he brings this point to the attention of the co-chairs of the House Finance Committee every chance he gets.

[9:23:45 AM](#)

MR. BURNETT, in response to Representative Johnson's comment about gambling, noted that last year, the Department of Revenue, worked on the pension obligation bond legislation, which sets borrowing at approximately 5.5 percent, compared to the predicted borrowing range of 4.5 percent related to HB 313. During its work on the pension obligation bond legislation, he said, the department did "Monte Carlo simulations" - considering "every point since markets have existed, and up to about 6 percent interest there is a 99 percent confidence level that the state would not be gambling. He said, "It's not a matter of losing money; it's a matter of you making the responsible choice of actually putting the other money in savings. That's really the question here."

[9:24:49 AM](#)

REPRESENTATIVE JOHNSON said he is intrigued by the fact that the analysis is called "Monte Carlo." He noted that slot machines in Las Vegas pay off at 99 percent, "and they don't build those chandeliers by people that win at slots."

[9:25:13 AM](#)

REPRESENTATIVE ROSES expressed appreciation for Mr. Burnett's having brought up the issue of the obligation bond. He said this discussion does not differ so much from one that was held several years ago to prepare for an expected serious revenue shortfall. At the time, 50 Alaskans gathered together in Fairbanks to consider how to leverage the existing money, and that consideration was called, "percent of market value" (POM). He continued:

And if there was some value to spending up to 5 percent of the earnings and leaving the 3 to ... 4 percent and not touching the corpus, this is actually doing it in the opposite way: we're taking the \$100 million that we would have spent, and we're going to invest that at an average [return]. If you look at the 10-year average return, just from the [Alaska Retirement Management] (ARM) Board alone from when I sat on there, you're talking 8.25 percent over a 10-year average. And if you go even further out, and look at a 15-year average or more, we exceed that. And so, there's only been one period of time in which the 3-year average went below 8 percent and it was 5.75 [percent]. And so, it's a risk, but it's certainly a very minimal risk, and I think it's one that's worth taking, simply because you're going to be able to leverage some of the debt.

REPRESENTATIVE ROSES asked what kind of penalty factor would be involved in trying to pay off a general obligation bond early if that bond was "floated" and the interest rates started to "go south."

[9:26:47 AM](#)

MR. BURNETT, regarding GO bonds, said depending on the structure of the actual debt sale, the state has a number of opportunities to refund bonds. For example, the state could get a lower interest rate and sell new bonds. He said it is not necessary to get a new vote of the public in order to refund bonds. If the bonds are not "haulable" - they cannot be paid off early - the state would borrow the money, put it into an account, and do a "defeasement," which would have the advantage of a lower interest rate.

[9:27:33 AM](#)

REPRESENTATIVE ROSES offered a translation from Mr. Burnett's finance language:

You probably couldn't pay it off, but you could set money aside and use the earnings from that money then to pay off the debt, so that you're not upside down in terms of your earnings as opposed to your expenditures.

MR. BURNETT responded that's correct.

[9:28:32 AM](#)

MR. BURNETT, in response to a question from Representative Johnson regarding an appropriation shown on page 2, line 17, of the bill, explained that fiscal notes serve as information "or [an] appropriation vehicle that goes along with the budget, with the bill," whereas a specific appropriation does not need to be in a fiscal note.

[9:28:56 AM](#)

REPRESENTATIVE ROSES moved to report HB 313 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 313 was reported out of the House State Affairs Standing Committee.

[9:29:43 AM](#)

CHAIR LYNN discussed the upcoming House State Affairs Standing Committee calendar.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [9:30:07 AM](#).