

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 15, 2008

11:07 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Bob Lynn, Chair
Representative Kyle Johansen

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 37

Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor and to eliminate personal pronoun references in the sections proposed to be amended.

- MOVED HJR 37 OUT OF COMMITTEE

HOUSE BILL NO. 374

"An Act requiring publication of notice by state agencies when they transfer positions in the classified, partially exempt, or exempt service from one area of the state to another."

- HEARD AND HELD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 261

"An Act establishing a program of public funding for the financing of election campaigns of candidates for state elected offices, to be known as the Clean Elections Act."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 37

SHORT TITLE: CONST AM: SEC. OF STATE REFERENCES

SPONSOR(s): REPRESENTATIVE(s) GRUENBERG

02/19/08 (H) READ THE FIRST TIME - REFERRALS
02/19/08 (H) STA, JUD
03/13/08 (H) STA AT 8:00 AM CAPITOL 106
03/13/08 (H) Scheduled But Not Heard
03/15/08 (H) STA AT 11:00 AM CAPITOL 106

BILL: HB 374

SHORT TITLE: REQUIRE NOTICE OF RELOCATION OF STATE JOB

SPONSOR(s): REPRESENTATIVE(s) DOLL

02/19/08 (H) READ THE FIRST TIME - REFERRALS
02/19/08 (H) STA, FIN
03/15/08 (H) STA AT 11:00 AM CAPITOL 106

BILL: HB 261

SHORT TITLE: PUBLICALLY FINANCED ELECTIONS

SPONSOR(s): REPRESENTATIVE(s) LEDOUX

05/15/07 (H) READ THE FIRST TIME - REFERRALS
05/15/07 (H) STA, JUD, FIN
01/25/08 (H) SPONSOR SUBSTITUTE INTRODUCED
01/25/08 (H) READ THE FIRST TIME - REFERRALS
01/25/08 (H) STA, JUD, FIN
02/21/08 (H) STA AT 8:00 AM CAPITOL 106
02/21/08 (H) Heard & Held
02/21/08 (H) MINUTE(STA)
03/06/08 (H) STA AT 8:00 AM CAPITOL 106
03/06/08 (H) Scheduled But Not Heard
03/15/08 (H) STA AT 11:00 AM CAPITOL 106

WITNESS REGISTER

SUSAN HARGIS, Staff
Representative Andrea Doll
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 374 on behalf of
Representative Doll, prime sponsor.

JACK KREINHEDER, Chief Analyst
Office of the Director
Office of Management & Budget
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 374.

NICKI NEAL, Director
Division of Personnel & Labor Relations
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 374.

SUZANNE HANCOCK, Staff
Representative Gabrielle LeDoux
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 261 on behalf of Representative LeDoux, prime sponsor.

REPRESENTATIVE GARDNER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as co-sponsor of HB 261.

ERIC EHST, Director
Clean Elections Institute
Phoenix, Arizona

POSITION STATEMENT: Testified and answered questions during the hearing on HB 261 on behalf of the Clean Elections Institute.

TIM JUNE, Chair
Alaskans for Clean Elections
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 261.

ACTION NARRATIVE

VICE CHAIR BOB ROSES called the House State Affairs Standing Committee meeting to order at [11:07:22 AM](#). Representatives Coghill, Johnson, Gruenberg, Doll, and Roses were present at the call to order.

HJR 37-CONST AM: SEC. OF STATE REFERENCES

[Contains mention of HJR 7.]

[11:08:23 AM](#)

VICE CHAIR ROSES announced that the first order of business was HOUSE JOINT RESOLUTION NO. 37, Proposing amendments to the Constitution of the State of Alaska to correct obsolete references to the office of secretary of state by substituting references to the office of lieutenant governor and to eliminate personal pronoun references in the sections proposed to be amended.

[11:08:37 AM](#)

REPRESENTATIVE GRUENBERG presented HJR 37 as prime sponsor. He stated his hope that the resolution would be noncontroversial. He said it is similar to HJR 7, which was sponsored by Representative Anderson in 2007. As noted in the sponsor statement and in a memorandum from Jack Chenoweth of Legislative Legal and Research Services, dated 2/18/08, included in the committee packet, voters approved a series of amendments to the Constitution of the State of Alaska in 1970, technically changing the name, "Office of Secretary of State," to "Office of the Lieutenant Governor." However, through an oversight, the drafting attorneys missed two of the references to secretary of state, located in Article 2, Section 5, and Article 3, Section 25. The proposed resolution would correct that technical oversight. Furthermore, the resolution would change masculine pronouns to gender neutral.

[11:10:53 AM](#)

VICE CHAIR closed public testimony.

[11:11:03 AM](#)

REPRESENTATIVE GRUENBERG moved to report HJR 37 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HJR 37 was reported out of the House State Affairs Standing Committee.

HB 374-REQUIRE NOTICE OF RELOCATION OF STATE JOB

[11:11:33 AM](#)

VICE CHAIR ROSES announced that the next order of business was HOUSE BILL NO. 374, "An Act requiring publication of notice by state agencies when they transfer positions in the classified, partially exempt, or exempt service from one area of the state to another."

[11:12:01 AM](#)

SUSAN HARGIS, Staff, Representative Andrea Doll, Alaska State Legislature, presented HB 374 on behalf of Representative Doll, prime sponsor. She said the bill would require 30-day notification for any state job that is moved to another location in Alaska. The intent of the bill is to increase government transparency. Ms. Hargis said there are a lot of valid reasons for moving positions around the state, but it is helpful for the public, legislators, and other agencies to know where those positions are going to be located.

[11:14:44 AM](#)

REPRESENTATIVE COGHILL moved to adopt the proposed committee substitute (CS) for HB 374, Version 25-LS1322\E, Wayne, 3/14/08, as a work draft.

[11:15:05 AM](#)

REPRESENTATIVE GRUENBERG objected for discussion purposes.

[11:15:19 AM](#)

MS. HARGIS noted that the only change made in Version E was the deletion of the Alaska Railroad from the language, because the Alaska Railroad is a public corporation and its employees are not defined as state employees. Furthermore, the corporation does not utilize the classified, partially exempt, or exempt categories.

[11:16:21 AM](#)

REPRESENTATIVE GRUENBERG removed his objection, therefore Version E was before the committee as a work draft.

REPRESENTATIVE GRUENBERG asked Ms. Hargis what the sponsor's position would be if after exempting one corporation, others wanted to be exempted as well.

MS. HARGIS responded that no other agencies have made the request.

REPRESENTATIVE GRUENBERG recommended that the bill sponsor check with the Alaska Permanent Fund Corporation, "so that they don't derail the bill at the very last minute." He asked for the definition of "transfer", indicating his concern that people

might try to avoid the proposed bill's requirement by calling a move a temporary assignment rather than a transfer. He cited the definition from Black's Law Dictionary, which read as follows:

transfer, vb. 1. To convey or remove from one place or one person to another; to pass or hand over from one to another, esp. to change over the possession or control of.

[11:19:02 AM](#)

REPRESENTATIVE DOLL conceded that Representative Gruenberg had an excellent point, and she suggested the bill could be amended to add that definition of "transfer". She explained the reason for using the word "transfer" is to clarify that a new job is not being created.

[11:19:24 AM](#)

REPRESENTATIVE GRUENBERG said he is not going "to suggest any definition because it's something that's going to require some thought." He said he thinks the bill sponsor needs to look at ways that, in the worst-case scenario, "people could try to get around this," and tighten the language to prevent that from happening.

[11:19:56 AM](#)

REPRESENTATIVE JOHNSON said he has a similar concern with the language, "area of state". He asked if the 30-day notice requirement would apply to an office moving from Juneau to Douglas or a legislator moving back to his constituency. He said he thinks there are potential "hang-ups" related to the bill because of the loose definition of "area", and he said he would hate the bill to be interpreted so that a legislator would have to give a 30-day notice just to move from one office to another within the capitol.

[11:21:06 AM](#)

REPRESENTATIVE DOLL noted that reference to Juneau means the City & Borough of Juneau; therefore, Douglas would be included. She indicated her willingness to tighten the language of the bill.

REPRESENTATIVE JOHNSON reiterated that "area" is broad language that needs to be defined more narrowly.

[11:22:02 AM](#)

MS. HARGIS, in response to a question from Vice Chair Roses, said the Division of Personnel tracks the location of positions currently.

REPRESENTATIVE GRUENBERG, in response to Representative Doll's remark about the City & Borough of Juneau, suggested guidelines based on city and borough, but noted that much of the state is in unorganized boroughs.

[11:24:15 AM](#)

REPRESENTATIVE COGHILL offered his understanding that there is currently an online notification system that announces positions open for hire, and those already in state employment are given preference.

MS. HARGIS responded that the Division of Personnel has a system to denote where a position is open at any given time. For example, when a position is transferred, it would be listed on the system. She pointed out that sometimes the current holder of a position is transferred with the position, while other times the position is transferred in open status. The bill would encompass both scenarios, she said. She said it is in the public's best interest to assist in figuring out where certain positions and employees in them can be contacted.

REPRESENTATIVE COGHILL said he is trying to figure out "how it might work as a system." He stated, "It just seems to me, looking at the fiscal note, that this is going to require more. And so, I'm kind of heading towards the direction of if there's already a system in place - if somebody already put those out - that it can justify that."

MS. HARGIS said the Office of the Lieutenant Governor has a 30-day public notice system, "and they said it would not be a problem and it would not be an extra cost, because they're simply posting onto that same system."

[11:27:23 AM](#)

JACK KREINHEDER, Chief Analyst, Office of the Director, Office of Management & Budget, shared that he has lived in Juneau for

30 years and recognizes Representative Doll's concern regarding the transfer of position out of Juneau. However, he stated that the administration does not support the bill because it views it as micro-managing the executive branch and state agencies. He said the Office of the Governor believes that departments need "the flexibility to replace staff where agency functions and services require those positions" - factors he said will naturally change over time. He noted that historically there have been positions not only transferred out of Juneau, but out of Anchorage and Fairbanks to Juneau as well. He said even though the bill proposes notification, without placing any restriction on the transfers, the Office of the Governor views the proposal as a "slippery slope" and is not comfortable "going down that road of having to provide that kind of notification."

REPRESENTATIVE DOLL asked Mr. Kreinheder if he would characterize the objection of the Office of the Governor to HB 374 as resulting from "thinking that there's an intrusion here from the legislature."

MR. KREINHEDER replied that that's one concern. He noted that Senator Elton had requested that the Office of the Governor review and essentially provide approval for transfers. He said the Office of the Governor did not support that request. He said the governor does not want to micro-manage even her own departments; she wants to hire good administrators and allow them to do their work.

The committee took an at-ease from [11:31:22 AM](#) to [11:33:45 AM](#).

[11:33:49 AM](#)

REPRESENTATIVE GRUENBERG stated that the Fiscally Responsible Alaskans Needing Knowledge (FRANK) Initiative [of 1994] had wide public support, and the governor has taken a position in favor of open and transparent government. He said the bill sponsor is trying to "expand that concept into an area that people have some interest in." He asked Mr. Kreinheder, "Why in the world would the governor take a position against the position she's already taken, against the public's right to know?" He added, "We're going to find ourselves going down the road they are in Washington, D.C., where Congress is trying to open government, and the executive branch has in the past, under several administrations - both parties - tried to close it." He said that is not popular with the people, is not good public policy, and is "going in the wrong direction."

MR. KREINHEDER responded that the administration is happy to provide information requested by the legislature and members of the public regarding transfer positions, and has done so in the past through the Department of Administration. He clarified that the problem the governor has with the bill is related to the issue of advance notification of positions.

REPRESENTATIVE GRUENBERG asked if the concern is in regard to the 30-day requirement. He said he does not know what the bill sponsor thinks on the matter, but he said [the 30-day requirement] is a detail that ought to be able to be resolved "so we can get on with the process and the policy of the administration."

REPRESENTATIVE DOLL said, "No."

[11:36:01 AM](#)

REPRESENTATIVE JOHNSON stated his understanding that the state is never in the practice of moving jobs and not announcing that information in the database.

[11:36:14 AM](#)

MR. KREINHEDER answered that the information is available. He deferred to Ms. Neal for further comment.

[11:36:52 AM](#)

NICKI NEAL, Director, Division of Personnel & Labor Relations, responded to questions previously posed by the committee. She confirmed that the location of positions is tracked by the division and that information is processed in its system either prior to or concurrent with the transfer position.

[11:37:26 AM](#)

REPRESENTATIVE COGHILL asked what practical problems a 30-day requirement may cause.

MS. NEAL explained that there are times when positions are transferred while vacant, and recruiting takes place in one location and may be a difficult and lengthy process. She said, "Then they may decide ... it's feasible to have this work done from another location, so that would essentially delay the filling and accomplishment of work, if once that decision was made, a 30-day notice period was required."

11:38:07 AM

REPRESENTATIVE DOLL said she thinks two different issues are being discussed. The first scenario Ms. Neal just described, but the second pertains to jobs where it is known well ahead of time that the position is going to be moved from one location to another. She asked Ms. Neal if she agrees.

MS. NEAL said that's correct. When a position is filled, there is a period of time in which notices are provided to an employee and the union prior to the position being filled, whereas when the position is vacant, the employee is [offered the job] and moved rather quickly.

11:39:23 AM

VICE CHAIR ROSES asked Ms. Neal if passage of the proposed bill would conflict with any current negotiated agreements, in terms of the handling of transfers.

MS. NEAL replied that to best of her knowledge, the answer to that question is no.

11:39:46 AM

REPRESENTATIVE COGHILL reviewed that the bill lists "classified", "partially exempt", and "exempt" service. He asked, "Who would this not cover with regard to transfer of a position?"

MS. NEAL answered, "I'm not aware of anyone that it would not cover in the executive branch."

REPRESENTATIVE COGHILL asked what "the body of possible movements" would be and how many of [these positions] have been moved within the last two years.

11:41:01 AM

MS. NEAL said combining classified, partially exempt, and exempt categories, there are approximately 15,000 positions. She said she does not have a count of the number of positions transferred on hand. Ms. Neal referred to a document prepared by Senator Elton based on numbers the Division of Personnel provided, [entitled, "The erosion of state jobs in Juneau," included in the committee packet], in which Senator Elton indicates that 136

positions were transferred out of Juneau in the last 18 months. However, Ms. Neal said there were several positions transferred into Juneau. She said, I don't have that number right, nor do I have the number available right now of positions that were moved between other locations throughout the state." She offered to gather that information for the committee.

REPRESENTATIVE COGHILL suggested perhaps the question to ask is how many people move to Anchorage from other parts of the state each year?

[11:42:19 AM](#)

REPRESENTATIVE JOHNSON offered his understanding that "this ... is not limited just to the executive branch; this is all agencies." He questioned whether a line would be crossed in terms of separation of powers by telling the judicial system or instructing the university to announce job transfers.

REPRESENTATIVE GRUENBERG addressed Representative Johnson's concern by noting that the House State Affairs Standing Committee sponsored a bill in 2007 that would provide a procedure for the removal of [the University of Alaska's Board of Regents], and that bill still resides in the House Judiciary Standing Committee. He cited AS 14.40.170, which lists the duties and powers of the Board of Regents, as mandated by the legislature, and he said that shows there is a precedent for giving such directives. Representative Gruenberg directed attention to subsection (b), beginning on page 2, line 29, which read as follows:

(b) In this section, "state agency" means a department, institution, board, commission, division, authority, public corporation, committee, or other administrative unit of the executive branch of state government, including the University of Alaska, but not including the Alaska Railroad Corporation.

REPRESENTATIVE GRUENBERG said the language in subsection (b) is "internally inconsistent," because he stated his understanding that the University of Alaska is not part of the executive branch.

MR. KREINHEDER said he hesitates to respond. Notwithstanding that, he offered his understanding that the university "is within the executive branch, but has certain special provisions that apply to it." In response to a follow-up question from

Representative Gruenberg, he said the Alaska Railroad Corporation is "a special case," because it is not subjected to the Executive Budget Act, whereas the majority of state corporations - including the Permanent Fund Corporation and Alaska Housing Finance Corporation (AHFC) - are.

[11:47:05 AM](#)

REPRESENTATIVE GRUENBERG asked, "If this is important enough to do, why isn't the judicial branch included? Because when judges and important judicial employees are transferred around, that has a major effect on communities." He also suggested that in addition to announcing transfers, new and deleted positions be announced.

[11:48:04 AM](#)

REPRESENTATIVE DOLL related that other areas of the state are increasing the number of their state employees, while Juneau - the capital city - is the only location that has a decrease in state employees. She said she thinks both the FRANK Initiative and the proposed legislation shows that the public wants to know and wants to be involved, rather than being told what is going on after the fact. She said the issue is a philosophical one. She concluded that this is not a "Juneau thing," although important to Juneau; it is a policy issue for state.

[11:50:35 AM](#)

REPRESENTATIVE GRUENBERG said he also would not want the bill to result in having to report the moving of one office room to another within the same building.

[11:51:15 AM](#)

REPRESENTATIVE COGHILL concurred. He stated that he does not want the notice to become obstructive to good state government. He talked about ways to define "location".

[11:53:28 AM](#)

MR. KREINHEDER suggested that if the concern is finding out about transfers that occur from one city or municipality to another, clarifying language could be inserted [on page 2, within lines 20-22].

REPRESENTATIVE COGHILL pointed out that some State of Alaska jobs are located in Seattle, Washington and Washington, D.C. He said he does not think the bill can be carried out without a cost to the state, and thus, he recommended the sponsor reconsider the [zero fiscal notes in the committee packet]. He said he thinks the committee could help the sponsor figure out a definition for "location".

[11:55:25 AM](#)

REPRESENTATIVE JOHNSON, regarding the public notices system, asked Ms. Neal how many "unique page views" are possible on a monthly basis and how many of those are "from outside state computers" versus "inside."

[11:55:51 AM](#)

MS. NEAL responded that the Office of the Lieutenant Governor administers the online public notice system, and she could ask that office for the information.

[11:56:04 AM](#)

REPRESENTATIVE JOHNSON opined that if the bill were truly about informing the public, there would need to be some type of outreach other than "the miniscule number of people that actually access the Alaska online notices systems." Those few people, he surmised, consist of contractors looking for bids and state employees looking to find what positions are open. He said he thinks the bill is about notifying the government, and for that reason he cannot support it.

[11:57:57 AM](#)

VICE CHAIR ROSES, after ascertaining that there was no one else to testify, closed public testimony.

[11:58:12 AM](#)

REPRESENTATIVE COGHILL said he is not yet prepared to offer an amendment that would clarify the meaning of "location". He said it may be necessary to "put a term in there and then put a definition that goes with it." He emphasized that a definition is needed.

[11:59:28 AM](#)

VICE CHAIR ROSES announced that HB 374 was heard and held.

The committee took an at-ease from [12:00:13 PM](#) to [12:11:48 PM](#).

HB 261-PUBLICALLY FINANCED ELECTIONS

[12:11:59 PM](#)

VICE CHAIR ROSES announced that the last order of business was SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 261, "An Act establishing a program of public funding for the financing of election campaigns of candidates for state elected offices, to be known as the Clean Elections Act."

[12:12:11 PM](#)

REPRESENTATIVE COGHILL moved to adopt the proposed committee substitute for sponsor substitute (CS) for SSHB 261, Version 25-LS0929\M, Bullard, 2/21/08, as a work draft.

REPRESENTATIVE GRUENBERG objected for discussion purposes.

[12:12:55 PM](#)

SUZANNE HANCOCK, Staff, Representative Gabrielle LeDoux, Alaska State Legislature, testified during the hearing on SSHB 261 on behalf of Representative LeDoux, prime sponsor. She stated that to her knowledge, the only change made in Version M was to replace all references to "clean elections" with "publicly financed elections."

[12:13:26 PM](#)

REPRESENTATIVE GRUENBERG removed his objection, therefore, Version M was before the committee as a work draft.

[12:13:44 PM](#)

REPRESENTATIVE GARDNER, Alaska State Legislature, as sponsor of SSHB 261, said she thinks there is broad support among the public for the proposed legislation. She said she is a believer in the initiative process and the committee process, and "any kind of policy change like this really needs the support and the detailed look that the committee process brings to it."

[12:14:30 PM](#)

ERIC EHST, Director, Clean Elections Institute, told the committee that the institute was set up to monitor the implementation of "clean elections" in Arizona. He said he would address "some of the common questions and concerns, ... the urban legends that have grown up around public financing." He stated that Arizona has had public financing for four election cycles, having passed its [Clean Elections Act] in 1998 and begun the system in 2000. The system has grown in usage each year, up to the point where, in 2006, over 60 percent of eligible candidates used the system, with a projected usage in the 2008 election of up to 70 percent, he reported. Nine of the eleven current statewide officers, including the governor's secretary of state and attorney general, have been elected using the system, as have 38 of the state's 90 sitting legislators, he noted.

MR. EHST said the system has been successful, there have been no problems in its implementation, and it is publically popular. The latest survey conducted by a nonpartisan organization shows that 81 percent of registered voters said they thought the system was important for the state. In the ten years since the Clean Elections Act was adopted, voter participation has increased; the 2006 election had the highest voter turnout for a nonpresidential race since 1982. Furthermore, the Act has increased the number of people who participate financially in the process through giving the \$5-dollar qualifying contributions to candidates. The number of people who have received some financial contributions has increased exponentially.

[12:18:02 PM](#)

MR. EHST turned to the issue of misperceptions related to the Clean Elections Act. The biggest question, he noted, is whether the Act results in a free ride for candidates, allowing them to get the public money and spend it on anything they want without being accountable. Mr. Ehst debunked that myth by relating that Arizona's system has set up much more accountability than there ever was in the campaign finance system prior to the Act. He backed that up by relating stories of candidates that did not qualify. He said the donated money must be spent for "actual campaign purposes" and at fair market value. Any complaints are investigated, and any fines or penalties come out of the candidates' pockets.

[12:22:03 PM](#)

MR. EHST talked about the equalizing character of a matching fund system. He said, "If you're running as a Clean Elections candidate and your opponent, who's a traditionally funded candidate, raises more money than you get ... from the Clean Elections system, you get matching funds to make up for that - to level the playing field." If an independent expenditure campaign sends out a mailer either in favor of a candidate's opponent or against the candidate, he noted, that candidate gets matching funds "to make up for that." He said if a candidate receives a windfall right before elections and cannot spend it on his/her campaign, that money has to be returned to the fund. He said the system works efficiently to "identify these expenditures ahead of time, as early as possible, and get the matching money out to the candidates quickly."

MR. EHST brought up a case in which a candidate for governor in Maine paid her husband \$100,000 out of Clean Elections funds to be a consultant for her campaign. Doing so was not illegal, but Maine is working on making it so. It is not illegal in Arizona, he added. The candidate's husband was an actual professional campaign consultant. Another concern he related was in regard to the 2006 election campaign, "where the system was voted down on the ballot" He said that was a special case, in which the people who ran the initiative in California "were not the actual, national, clean money people working on doing this across the country." He emphasized the control systems that are in place to make certain the system is "effective and efficient and fair to everybody."

[12:25:30 PM](#)

VICE CHAIR ROSES asked Mr. Ehst if he is familiar with the Goldwater Institute Policy Report of March 28, 2006.

MR. EHST answered yes. He said he has been rebutting that report. He said the report is full of data that has been distorted to "fit their conclusion," and there is little in it that is true.

VICE CHAIR ROSES noted that the report found that the Arizona Clean Elections System had largely failed to live up to its stated goals - one being that there would be overall improvement in political participation.

MR. EHST responded that the report's basis for saying that was primarily based on voter turnout, but the report distorted the voter turnout data to the point where it was totally

unrecognizable. Mr. Ehst stated, "If you look at voter turnout by any objective measure, it has been rising steadily with each election since [the Clean Elections Act] was adopted." He reiterated that Arizona's 2006 voter turnout was the highest seen since 1982, a statistic that he noted is from Arizona's secretary of state. He said the Goldwater Institute Policy Report includes presidential years, nonpresidential years, primary elections, general elections, and even one presidential preference primary that was only for Republicans; therefore, there is no discernable trend in the data. Furthermore, he said, the report expresses voter turnout as "a percentage of voting-age population." He said that means everyone in the state over the age of 18, including very rapidly rising populations in Arizona of noncitizen immigrants and ex-felons, neither of whom can vote. He said he is sure the Goldwater Institute is not advocating that those groups be allowed to vote. He said voter turnout, as determined by the percentage of registered voters or as a percentage of voting eligible people, and by comparing like elections, has increased steadily. He added, "It has also risen significantly if you measure ... how many voters are actually giving money in the form of the \$5-dollar contribution to candidates."

[12:28:52 PM](#)

VICE CHAIR ROSES said another claim regarding the Clean Elections process is that it would encourage more candidates to run for office; however, the aforementioned report claims that from 2002 to 2004, the number of primary candidates for office fell from 247 to 195, the number of statewide candidates fell from 39 to seven, and the number of legislative candidates fell from 208 to 188.

MR. EHST responded, "In raw number terms that's correct." He said 2002 was a record year for candidates for all offices because, simultaneously, the state was redistricting and term limits were put in play that went into effect as a result of the 2000 election. All of those factors, he explained, created a huge number of open seats. The number of candidates today is significantly higher than it was before the Clean Elections Act was adopted. He stated, "The Goldwater Institute ... - they pick the years that they want to, to make it look the worst that they can." He noted that the number of candidates who use the Clean Elections system has been rising steadily, as well.

VICE CHAIR ROSES referred to the [United States General Accounting Office (GAO)] Report to Congressional Committees,

dated May 2003. He read a statement from the report, which specifically references Maine and Arizona as the two states with a Clean Elections program, as follows:

The average number of state legislative candidates per district race in Maine and Arizona in 2000-2002 elections were not notably different than the average for the two previous elections for '96 and '98.

VICE CHAIR ROSES asked, "So, wouldn't that statement uphold the statement that the Goldwater Institute made in their report?"

MR. EHST said he does not have the figures used in the GAO report, but he believes it is in error, particularly because it references the 2000-2002 elections, which actually had record numbers of candidates in Arizona.

[12:32:47 PM](#)

MR. EHST, in response to a request from Vice Chair Roses, noted that the long-term trend regarding incumbency is not clear, yet the Goldwater Institute reported that incumbents are being reelected at the same rate. He said the problem is [the institute's] data only considers incumbent reelection rate in the general election, and in Arizona - particularly for the legislative seats - 26 of the 30 legislative districts "have a heavy majority for one party or the other." Any incumbent who can survive a primary challenge in Arizona is virtually guaranteed to be reelected, he relayed; however, in Arizona's 2002 and 2004 primary elections, a number of incumbents were "knocked off," and the incumbent reelection rate, which is usually in the high 90 percentile, was 73 percent in 2002 and still below 90 percent in 2004. He stated, "We do know that there are fewer uncontested ... primary races since Clean Elections, and that a number of incumbents have ... lost in primary challenges by Clean Elections-funded opponents."

[12:35:27 PM](#)

VICE CHAIR ROSES asked for historical data regarding which party held the majority prior to the Clean Elections Act compared to today.

MR. EHST replied that Arizona is a "fairly Republican state," and the majority has been held by the Republican Party since the 1960s, with the exception of one year in the early 1990s when the Democrat Party "took the state senate." The Republican

majority still exists today in Arizona. He offered further details.

12:37:02 PM

MR. EHST, in response to a question from Representative Johnson, explained that the funding of Clean Elections in Arizona is fairly unique, in that the primary funding mechanism, from which more than 60 percent of the money comes, is sourced from a 10 percent surcharge on all criminal and civil fines. The system generates a surplus of money that is then transferred to Arizona's general fund, which is currently being applied to the state's record budget deficit. He told the committee that [Clean Elections] is not a taxpayer funded system.

12:38:25 PM

REPRESENTATIVE JOHNSON responded that he would hate to see a situation where the State of Alaska promoted crime to fund elections. He offered his understanding that SSHB 261 proposes that the Clean Elections would be funded publicly from the state treasury.

MR. EHST, in response to a follow-up question from Representative Johnson, related that Maine's Clean Elections are financed through legislative appropriation, and the state is considering reducing the financing available to candidates, because of budget cuts. Connecticut just passed [a Clean Elections Act] by legislative action and will begin the system with its upcoming election, funding it through legislative appropriation. The pilot program for legislative seats in New Jersey is funded by legislative appropriation. Arizona is a financially conservative state, thus, it set up a system that would be self-funding. He stated, "While we ... certainly don't condone law breaking, there are plenty of speeders in the state to keep us flush."

MR. EHST, in response to Representative Johnson, confirmed that it is his contention that [a Clean Elections system] has increased the number of candidates in Arizona. He clarified that although he works with activists and groups nationwide, his organization, whose mission is to monitor the implementation of the Clean Elections Act, is specific to Arizona. He said it is difficult to report the exact number of candidates, because the number varies widely by election. He reiterated that there were a record number of candidates in 2000-2002 because of the term limits and redistricting. He proffered that there were

approximately 20 percent more legislative candidates in 2006 than in 1998, "which was a similar election."

REPRESENTATIVE JOHNSON said, "Our fiscal note is based upon an election that happens, so I'm wondering if we can add 20 percent to the fiscal note on this."

12:42:05 PM

REPRESENTATIVE GRUENBERG said it is easy to say that since "B" follows "A," therefore "A" caused "B," for example, but that is not always true, unless the situation is completely controlled and there is a causal connection shown, with no extraneous factors that could have caused the result.

MR. EHST said he certainly understands and agrees with that.

REPRESENTATIVE GRUENBERG said in this instance it sounds like there were at least two other factors that kicked in: term limits and redistricting. He asked Mr. Ehst if he could prove that "those two results were due to Clean Elections and not other factors."

MR. EHST responded that without a scientifically pure study, it is not possible to absolutely prove one thing or another; however, he said there was definitely an effect in the 2000-2002 elections, particularly, of term limits and redistricting. He said, of course, redistricting happens every 10 years. He continued:

We had, in those elections, ... fewer incumbents running for reelection. ... Because we are past the point where term limits took out a large number of incumbents at one time, we have now returned to the point where the number of incumbents running for office is essentially the same as it was before Clean Elections. The redistricting changes have now, since 2002, been worked out of the system. ...

I certainly will agree that the 2000 and 2002 elections were anomalous for those reasons, which is why, when I go back and compare 2004 and 2006, back to 1996 and 1998, we can say - and I can't, again, prove absolutely - that Clean Elections is ... at least the sole cause for this, but we can say that: voter turnout is up; the number of candidates is up; the number of contested races is up; the races are closer

than they used to be. ... The other influencing factors have had a chance to work their way out of the system since then.

MR. EHST, in response to Representative Gruenberg, reviewed that the term limits went into effect with the 2000 election. The term limits are four consecutive two-year terms for the legislature.

[12:46:58 PM](#)

REPRESENTATIVE GRUENBERG said he presumes that in the '90s there were no term limits, while now there are. He asked, "Might that not have also had the effect of what you're saying?"

MR. EHST clarified that when term limits first went into affect, there were a large number of legislators who were "term-limited" and had to leave office. Since then, the number of legislative incumbents running for reelections has rebounded to be essentially the same when comparing the election years 2006 with 1998, for example. He concluded, "So, while we didn't have term limits in the '90s, it isn't really now affecting the number of legislators running for reelections any more than just the natural number of people leaving office did in the 1990s."

REPRESENTATIVE GRUENBERG pointed out that the first group of legislators elected under the new term limits have yet to complete their potential full term.

MR. EHST clarified that starting in 2000, the term limits were effective for anyone who had served eight years, and a number of legislators were "termed out" in the years 2000 and 2002 and had to leave office, which created a large number of open seats in those years. Since then, he said, the number of legislators who are termed out does not appear to be changing the number of incumbents running for reelection any more than natural attrition did before term limits.

REPRESENTATIVE GRUENBERG explained his point is that it is too soon to tell. It will be necessary to see the data from the next two elections.

MR. EHST concurred. He continued:

The data that I have, as I said, shows a large turnover in those two years that is, at least for the present, rebounded to the point where the number of

incumbents running for reelection is essentially the same as it was in the 1990s, prior to term limits. And I don't think that the data from 2008, from what I've seen so far, looks like it's going to be significantly different than that.

12:50:53 PM

REPRESENTATIVE GRUENBERG stated, "Incumbency can breed gentrification and unwillingness to change and keep a legislature in tune with the times." He mentioned term limits, redistricting, Clean Elections, and Alaska's 90-day session and said they all "express and proceed from a general public distrust of the legislature." He said the Institute of Governmental Affairs (IGA), in California, is a think tank connected with the Political Science Department at California State University Berkley that has studied the effect of term limits in California and the effect on the balance of power. Representative Gruenberg stated his belief that there is a value in incumbency, "because a strong legislature is important for a good balance of power and to ensure that the people are represented properly." He asked Mr. Ehst to comment regarding whether or not part of the Clean Elections proposal is to get a greater turnover in the legislature, and whether there may be problems in doing so from a systemic, institutional, or constitutional point of view.

MR. EHST said he is not testifying as an advocate of term limits, and the purpose of Clean Elections is not to force incumbents out of office. He named the two primary purposes of Clean Elections: to reduce the influence of special interest money in the process of selecting elected officials; and to increase competition by giving more candidates the financial means to run for office. The incumbent reelection rate is not really a good measure of whether or not "Clean Elections is doing its job." Good measures include the number of candidates and whether or not voters are responding.

12:55:18 PM

VICE CHAIR ROSES referred to the findings in the bill and cited the first sentence, [on page 1, lines 6-8], which read as follows:

The legislature finds that providing a voluntary public financing system for all primary and general

state elections would enhance democracy in the state in the following principle ways:

VICE CHAIR ROSES highlighted one of those ways, [on page 1, subsection (1), lines 9-11], which read as follows:

(1) it would affirm the principle of "one person, one vote," reduce the disproportionate and deleterious influence of large contributors, and restore the rights of citizens of all backgrounds to equal and meaningful participation in the democratic process;

VICE CHAIR ROSES highlighted another of the ways public financing would enhance democracy, as written in the bill [on page 2, subsection (4), lines 1-3], which read as follows:

(4) it would diminish the public perception of corruption, strengthen public confidence in democratic institutions and processes, and eliminate the danger of corruption caused by the private financing of election campaigns;

VICE CHAIR ROSES asked Mr. Ehst if he agrees with those findings.

MR. EHST responded that that is the goal, "to eliminate that influence - ... whether it's subconscious or not - on the system."

VICE CHAIR ROSES asked Mr. Ehst if his group has conducted any surveys to ascertain whether or not the public feels that [Clean Elections] has "indeed accomplished that objective."

MR. EHST replied that his group has not, but the state commission that runs the program has. He said he did not bring that report with him. He said the commission conducts an annual survey of registered voters through a well-established, nonpartisan survey organization.

VICE CHAIR ROSES mentioned a United States General Accounting Office Report to the Congressional Committees on Campaign Finance Reform - a report regarding publicly funded elections. In it, 2002 survey results show that when asked if Clean Elections increased their confidence in the public process, 8 percent of those surveyed in Maine and 15 percent of those surveyed in Arizona answered yes.

VICE CHAIR ROSES asked Mr. Ehst if he finds those statistics surprising.

MR. EHST responded that he does not find the public perception surprising considering that when that survey was done in 2002, there had been one election conducted in both Maine and Arizona, and in Arizona, only about 25 percent of the candidates used the system. There was very little experience with the system at that point. He said quantitative effect on public policy is difficult to prove, because it is hard to track how taking special interest money out of the campaign process actually affects legislation.

VICE CHAIR ROSES next read a quote from the 2007 Maine Commission on Governmental Ethics and Election Practices - a report on Maine's Clean Elections Act - as follows:

Candidates are quite critical of the growth in independent expenditures made by political action committees and political parties. It is important to remember that the public funding cannot be a panacea for all ills of the electoral system.

VICE CHAIR ROSES noted that the commission reports it saw no change in the public's confidence related to big money influence as a result of Maine's Clean Election Act. He asked Mr. Ehst if he finds that surprising.

MR. EHST answered no. He said independent expenditures are a free speech issue and occur in all campaigns, whether or not the candidates are publicly financed. Furthermore, the amount of independent expenditures is rising exponentially across the country in races everywhere. He remarked that Clean Elections provides candidates who run "using the system" with additional funds to level the playing field, if they are the targets of independent expenditures.

VICE CHAIR ROSES said he appreciates that and is not trying to be argumentative. He explained:

When someone states that the main purpose of the bill is to accomplish those two objectives, and we have two reports that actually clearly state from surveys that were done that it indeed did not accomplish those objectives - and one being from 2007, it gives me a little bit of pause as to whether or not we're going to have that same opportunity in this state to claim

that it's going to make that kind of a change when history shows in the other states that it didn't.

1:02:37 PM

REPRESENTATIVE JOHNSON asked what the contribution levels and limits in Arizona were prior to the adoption of its Clean Elections Act.

MR. EHST responded that Arizona has some of the lowest individual contribution limits in the country, put in place by citizen initiative in the 1980s, with built-in inflationary factors. He noted that in 2008, the amount of money that a legislative candidate can take from any individual is \$390. He related that there is no limit on the aggregate amount that a candidate can collect or spend on his/her campaign, but the limits apply to contributions from individuals and PACs. Arizona does not allow any corporate or business contributions to candidates. In response to Representative Johnson, he said the contribution limit for a "normal" PAC is the same as for an individual, but offered his understanding that "super" PACs can give about \$1,700. He noted also that Arizona has a limit on the amount of contributions that a candidate can collect in aggregate from PACs.

1:05:34 PM

REPRESENTATIVE JOHNSON asked Mr. Ehst to talk about third-party expenditures.

MR. EHST responded:

If you had asked me in 2002 or 2004, I would have said independent expenditures were going down because of Clean Elections, because ... committees knew that if they made these expenditures targeting Clean Elections candidates, ... the Clean Elections candidates would get matching funds. In 2006, it appears that they rebounded it, at least to some extent, but I can't quantify it. ... We don't have a reporting system that ... allows us to know how much in aggregate there are in independent expenditures ... or in what races they're made. The only ... place where we could see it would be to look at the ... actual matching funds given to Clean Elections candidates.

REPRESENTATIVE JOHNSON asked if the increase in voter turnout, previously noted by Mr. Ehst, had been "adjusted for population."

MR. EHST answered yes. He clarified, "When I say, 'increase in voter turnout,' I'm not speaking in ... broad numbers of voters turning out, although that has increased rapidly." He stated that under both the percentage of registered voters and the number of people eligible to vote, the voter turnout has increased significantly in "like elections." In response to a follow-up question from Representative Johnson, he reported that the official voter turnout number for Arizona's 2006 general election was 60.47 percent - the highest since 1982. That number, in 1998, the last election before the Clean Elections Act was adopted, was 46 percent.

[1:08:58 PM](#)

VICE CHAIR ROSES asked if there were any "hot topic" issues that were on the ballot then. He relayed, for example, that any ballot issue having to do with the permanent fund dividend would bring increased numbers of voters.

MR. EHST responded that Arizona has a large number of ballot measures on the ballot in every election. He reiterated his comments regarding the steady rise of voter activity since the adoption of the Clean Elections Act.

[1:10:35 PM](#)

REPRESENTATIVE GRUENBERG recollected that Arizona is part of the Sun Belt and Baby Boomers turning 61, and others are moving to Arizona in increasing numbers. He asked if that may be one reason that the numbers are increasing. He noted that seniors tend to vote more.

MR. EHST said he cannot answer that question in quantitative terms. Notwithstanding that, he said Arizona has been part of the Sun Belt for many years now. He said he does not believe that the state's population is significantly older now than it was in 1998. He said Arizona also has a lot of young people moving to the state, as well.

REPRESENTATIVE GRUENBERG asked if any studies have been conducted to determine whether people who move to the sun belt tend to vote more than the people who are already there, perhaps

because they may be more upwardly mobile or more inclined to be civically involved.

MR. EHST said he doesn't know that such a study has been done. He noted that Latinos are rapidly becoming an increasingly larger part of Arizona's population, and national statistics show that that group tends to vote in lower numbers than the rest of the population. In response to a follow-up question from Representative Gruenberg, he explained that Arizona has a few majority/minority districts where Latinos and Native Americans are concentrated, and the number of Latino candidates and voters has not increased significantly after the adoption of the Clean Elections Act.

REPRESENTATIVE GRUENBERG said because of the "Motor Voter Act," over the past 10-15 years there have been a lot of names that have not been accurate on voter rolls. He asked Mr. Ehst if Arizona has taken steps to "cleanse that roll," which would increase the percentage of voters by lowering the denominator when the out-of-date names are removed from the list.

MR. EHST confirmed that the state has done so, to some extent, several times over the course of time. However, he said that has not changed the number of voters on the rolls enough to change the trend in voting. He said George Mason University conducts a good academic study nationwide of voter turnout, and that data - using the definition of voting eligible population, which is not related to how many people are actually on the voter rolls but by using census data to determine how many people in the state actually could vote - shows that voter turnout in Arizona has been rising steadily, as well.

[1:18:15 PM](#)

REPRESENTATIVE JOHNSON recalled that it is Mr. Ehst's opinion that Clean Elections increases the number of candidates that run for office, but others argue that it does not. He stated that if there is an increase, then the fiscal note is wrong. He added, "And if it doesn't increase the number of candidates, then that is an argument that we should be making, in terms of participation on this bill."

[1:19:02 PM](#)

REPRESENTATIVE GRUENBERG described a loophole regarding fundraising. He suggested that ratcheting down spending may favor incumbents more, because their challengers could not raise

the money to get the publicity to get the incumbents out of office. If the challenger feels the only way to get a message out is by not going after public funding, the situation becomes worse, "because then the public funds the incumbent's race entirely," he said.

MR. EHST said he is not sure he understands the question. Notwithstanding that, he said adopting a public financing system does not prevent any candidate from raising funding the traditional way, and allowing candidates to qualify for public financing does not decrease the amount of money that any candidate is getting.

[1:20:53 PM](#)

VICE CHAIR ROSES explained that Representative Gruenberg had been referring to SSHB 261, which proposes a limitation on expenditure, which may not be the case in Arizona.

MR. EHST offered his understanding that in every state that offers public financing, the candidate who receives it signs a contract that promises he/she will not spend any more money than he/she gets from the public fund. He continued:

Now, that goes back to the setting of the amount that a candidate receives to run for office. It has to be a fair amount to run a campaign. And also, you have the matching funds or equalizing funds, that if they are out-spent by an opponent or if there is an independent expenditure working against them, they get extra money to make up for that. There is a limit on that, otherwise you could potentially break the bank.

... What we have seen in Arizona is that [in] 90-95 percent of the races, ... the expenditures for all candidates fall within the amount of funding that a Clean Elections candidate gets from the system - either the initial funding that they get or the additional matching funds that they get.

MR. EHST said there have been a few instances where there has been a candidate who has gone out and raised a huge amount of money, far surpassing the Clean Elections spending or matching funds limit, thereby outspending his/her opponent. He offered details of just such an occurrence in Arizona's 2006 election. He said he has spoken with several candidates who have told him losing in that manner was okay, because without the Clean

Elections public funding, they never would have been in the race in the first place. He said the system cannot make up for that kind of funding, and no system ever will.

[1:24:46 PM](#)

REPRESENTATIVE JOHNSON described a hypothetical scenario in which one party ran an advertisement that promoted its own party and put down another. He asked if that would qualify every candidate in the other party for matching funds.

MR. EHST answered not necessarily. He said, "That's one of the things that we have wrestled with in refining the system." He said there is an exception built into Arizona law that allows political parties to make expenditures for "slate cards" which list a particular party's candidates. He stated:

Both parties have ... tried to make end runs around the Clean Elections law by producing slick, 12-page mailers that are all about a particular candidate and why this particular candidate is wonderful. And on the back page, in 10-point type, it lists two other candidates' names.

... We have now put into the Clean Elections administrative rules a very tight definition of what fits into that exception, and candidates do get matching funds for political party expenditures that ... do blatantly either support one of their opponents or attack them.

VICE CHAIR ROSES told Mr. Ehst that he has represented the issue well.

[1:28:29 PM](#)

TIM JUNE, Chair, Alaskans for Clean Elections, said Alaskans for Clean Elections is the group forwarding the Clean Elections Initiative. He said Alaskans for Clean Elections adopted a number of the recommendations in Maine's 2007 report. The initiative proposes that any group spending more than \$500 would have to report to the Alaska Public Offices Commission (APOC) and state whether the expenditure was either for or against a particular candidate. There would be an appeal process, in case a candidate disagrees that the independent expenditure was "either for or against them."

MR. JUNE, in response to Representative Johnson's comments about the need to increase the fiscal note, said he thinks the fiscal note was based on Maine's Clean Elections Act specifically. He said the system requires three or four election cycles "to really come into its own." In Maine, the first election cycle showed about 33 percent participation, by the second cycle it increased to 67 percent, and by the third cycle, the number grew to about 81 percent candidate participation in Clean Elections.

MR. JUNE, in response to a comment by Representative Gruenberg regarding the level of spending in political races, said he does not have any hard facts and figures, but thinks it could be agreed upon that in terms of a typical election cycle in Alaska, out of the 50 legislative races in each cycle, there are probably only eight to ten of those that are truly competitive when comparing dollar-for-dollar expenditure. He said Clean Elections brings out the opportunity for candidates to use Clean Elections funding. He predicted there would be more competitive races. He echoed Mr. Ehst's statement that the point of Clean Elections is not to replace incumbents, but to give whoever wins, if they are able to use the Clean Elections system, "a somewhat arm's-length distance, in terms of not having special interest influence or the influence of private donors."

[1:32:22 PM](#)

MR. JUNE referred to page 23 of chapter 3 of the Maine 2007 report, which he related shows that because of Maine's Clean Elections Act, the total amount of private contributions received by legislative candidates has fallen sharply, by nearly 77 percent. Furthermore, the report shows that in survey responses to the commission, a significant number of candidates and legislators have stated their belief that campaign contributions have some expectation of access and influence.

[1:33:07 PM](#)

REPRESENTATIVE GRUENBERG said there are and have been candidates that have businesses that advertise locally or statewide on television. He remarked, "It's like a 24/7 presence of that candidate for publicity's sake." He said sometimes the candidates are incumbents and sometimes they are challengers, but "this becomes tax deductible because it's a business expense." He said, "So, business finances this publicity and so does the federal government, in the sense that it's a tax deduction." He observed that those activities are not at all covered under SSHB 261 or under current law, and there are some

potential constitutional issues there. He asked Mr. June how the legislature should deal with that, because it seems to him that those individuals have a tremendous advantage over everybody else.

MR. JUNE said he agrees. Although constitutionally the state cannot control what a private individual does with private finances for advertising, some states have created a law so that no seated legislator can have his/her picture in any literature put out to constituents if that literature is paid for with state money. He said there are mechanisms to control that situation and that some states are using to minimize the incumbent's advantage. He concluded, "But in terms of private funds, I don't have an answer for you Representative Gruenberg."

[1:36:01 PM](#)

VICE CHAIR ROSES announced that SSHB 261 was heard and held.

[1:36:16 PM](#)

VICE CHAIR ROSES announced the upcoming House State Affairs Standing Committee calendar and gave notice of Senator Lisa Murkowski's upcoming appearance.

REPRESENTATIVE GRUENBERG talked about information he had received from Senator Murkowski.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [1:37:47 PM](#).