

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

May 2, 2007

1:53 p.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Bill Wielechowski  
Senator Lesil McGuire  
Senator Gene Therriault

**MEMBERS ABSENT**

Senator Charlie Huggins, Vice Chair

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 109(JUD) am  
"An Act relating to bribery, receiving unlawful gratuities, and campaign contributions; denying public employee retirement pension benefits to certain legislators, legislative directors, and public officers who commit certain offenses, and adding to the duties of the Alaska Retirement Management Board and to the list of matters governed by the Administrative Procedure Act concerning that denial; relating to campaign financing and ethics, including disclosures, in state and municipal government, to lobbying, and to employment, service on boards, and disclosures by certain public officers and employees who leave state or municipal service or leave certain positions in state or municipal government; restricting representation of others by legislators and legislative employees; relating to blind trusts approved by the Alaska Public Offices Commission; and providing for an effective date."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 109

SHORT TITLE: DISCLOSURES & ETHICS/BRIBERY/RETIREMENT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/25/07	(H)	READ THE FIRST TIME - REFERRALS
01/25/07	(H)	STA, JUD
01/30/07	(H)	STA AT 8:00 AM CAPITOL 106
01/30/07	(H)	Heard & Held
01/30/07	(H)	MINUTE(STA)

02/03/07 (H) STA AT 10:00 AM SPEAKER'S CHAMBER  
02/13/07 (H) STA AT 8:00 AM CAPITOL 106  
02/13/07 (H) <Postponed Pending Subcommittee Report>  
02/15/07 (H) STA AT 8:00 AM CAPITOL 106  
02/15/07 (H) <Postponed Pending Subcommittee Report>  
02/20/07 (H) STA AT 8:00 AM CAPITOL 106  
02/20/07 (H) <Postponed Pending Subcommittee Report>  
02/22/07 (H) STA AT 8:00 AM CAPITOL 106  
02/22/07 (H) Heard & Held  
02/22/07 (H) MINUTE(STA)  
02/27/07 (H) STA AT 8:00 AM CAPITOL 106  
02/27/07 (H) Heard & Held  
02/27/07 (H) MINUTE(STA)  
03/01/07 (H) STA AT 8:00 AM CAPITOL 106  
03/01/07 (H) Heard & Held  
03/01/07 (H) MINUTE(STA)  
03/03/07 (H) STA AT 10:00 AM CAPITOL 106  
03/03/07 (H) Moved CSHB 109(STA) Out of Committee  
03/03/07 (H) MINUTE(STA)  
03/07/07 (H) STA RPT CS(STA) NT 3DP 1NR 3AM  
03/07/07 (H) DP: ROSES, DOLL, LYNN  
03/07/07 (H) NR: JOHANSEN  
03/07/07 (H) AM: JOHNSON, COGHILL, GRUENBERG  
03/19/07 (H) JUD AT 1:00 PM CAPITOL 120  
03/19/07 (H) Heard & Held  
03/19/07 (H) MINUTE(JUD)  
03/20/07 (H) JUD AT 1:00 PM CAPITOL 120  
03/20/07 (H) Heard & Held  
03/20/07 (H) MINUTE(JUD)  
03/21/07 (H) JUD AT 1:00 PM CAPITOL 120  
03/21/07 (H) Heard & Held  
03/21/07 (H) MINUTE(JUD)  
03/22/07 (H) JUD AT 1:00 PM CAPITOL 120  
03/22/07 (H) Heard & Held  
03/22/07 (H) MINUTE(JUD)  
03/23/07 (H) JUD AT 1:00 PM CAPITOL 120  
03/23/07 (H) Moved CSHB 109(JUD) Out of Committee  
03/23/07 (H) MINUTE(JUD)  
03/28/07 (H) JUD RPT CS(JUD) NT 3DP 1NR 3AM  
03/28/07 (H) DP: LYNN, SAMUELS, RAMRAS  
03/28/07 (H) NR: COGHILL  
03/28/07 (H) AM: GRUENBERG, DAHLSTROM, HOLMES  
04/02/07 (H) TRANSMITTED TO (S)  
04/02/07 (H) VERSION: CSHB 109(JUD) AM  
04/04/07 (S) READ THE FIRST TIME - REFERRALS  
04/04/07 (S) STA, JUD, FIN  
04/24/07 (S) STA AT 9:00 AM BELTZ 211

04/24/07 (S) Moved CSHB 109(JUD)am Out of Committee  
04/24/07 (S) MINUTE(STA)  
04/25/07 (S) STA RPT 1DP 3NR 1AM  
04/25/07 (S) DP: BUNDE  
04/25/07 (S) NR: MCGUIRE, FRENCH, STEVENS  
04/25/07 (S) AM: GREEN  
04/26/07 (S) STA AT 9:00 AM BELTZ 211  
04/26/07 (S) <Bill Moved Out of Committee 4/24/07>  
04/26/07 (S) MINUTE(STA)  
05/02/07 (S) JUD AT 1:30 PM BELTZ 211

#### **WITNESS REGISTER**

DAVID JONES, Senior Assistant Attorney General  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Provided sectional analysis for CSHB 109(JUD) am.

JOHN FARLEIGH  
Anchorage, Alaska

**POSITION STATEMENT:** Offered testimony on HB 109.

TOM BRICE  
Alaska State District Council of Laborers

**POSITION STATEMENT:** Offered testimony on HB 109.

BROOKE MILES, Executive Director  
Alaska Public Offices Commission  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions about CSHB 190(JUD) am.

#### **ACTION NARRATIVE**

**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at [1:53:35 PM](#). Present at the call to order were Senator Therriault, Senator McGuire, Senator Wielechowski, and Chair French.

#### **CSHB 109(JUD) am - DISCLOSURES & ETHICS/BRIBERY/RETIREMENT**

[1:54:00 PM](#)

**CHAIR FRENCH** announced consideration of HB 109. Before the committee was CSHB 109(JUD) am.

DAVID JONES, Assistant Attorney General, Department of Law, Anchorage, reviewed the bill by section. He said HB 109 began as

a governor's bill and has gone through many changes in House committees.

1:55:06 PM

SENATOR McGUIRE noted several Senate committees have also worked on ethics legislation that has been sent to the House. She asked if during his review Mr. Jones could point out differences between the House and Senate versions of the legislation.

MR. JONES began with Section 1, page 2. The provision came through a floor amendment in the House and would change the definition of "benefit" in the criminal bribery statutes. It would prohibit agreements between candidates or elected officials to exchange campaign contributions for changing votes or positions.

CHAIR FRENCH said the committee had discussed a similar provision in SB 64.

MR. JONES said the difficulty with this version of the definition change in Section 1, page 2, line 9, is it refers to AS 39.52.960, the Executive Branch Ethics Act (EBEA). The provision would not apply to candidates for the legislature and he does not believe that was the intent of the House.

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MR. JONES said the version the committee dealt with earlier would resolve the concern.

CHAIR FRENCH noted a possible committee substitute (CS).

MR. JONES continued with his review. Sections 2 and 3, page 2, would apply pension forfeiture provisions to the Teacher's Retirement System which appears in Section 45. The reason for two sections is to apply the provision to both the former defined benefit system and to the current defined contribution system.

MR. JONES said Section 4, page 2, would eliminate the disclosure exemption that currently exists for campaigns raising and spending less than \$5000. Campaigns for delegates to the constitutional convention, a judge seeking judicial retention, and a candidate for election to a municipal office would still be allowed to take advantage of the exemption.

CHAIR FRENCH asked if Section 4 makes every single candidate, no matter how much money they raise, subject to Alaska Public Offices Commission (APOC) reporting requirements.

MR. JONES answered yes.

CHAIR FRENCH said in the past if a candidate raised under \$5,000 they were not subject to reporting.

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SENATOR McGUIRE asked what the rationale was for the provision.

MR. JONES said he would have to guess since he was not part of the discussions for drafting the provision or in the public hearings. He guessed that the opportunity to file reports electronically would be less of a burden on the APOC and on the individuals participating in the campaigns.

CHAIR FRENCH reiterated that this provision says even if a candidate does not raise any money they still must file a report electronically.

MR. JONES agreed.

CHAIR FRENCH asked how many candidates may be affected by this requirement.

[2:01:13 PM](#)

BROOKE MILES, Executive Director, Alaska Public Offices Commission, Anchorage, said very few exemptions are filed by state candidates. Candidates that do take advantage of the exemption do not generally conduct what she would respectfully consider a competitive race.

CHAIR FRENCH recognized that occurs but believes anyone has the right to run for office. He asked how many individuals who run for office raise less than \$5000.

MS. BROOKE said for municipal campaigns a high percentage, and for state campaigns between five and twelve individuals per election cycle.

SENATOR THERRIault thought the provision may have been added because of growing concern about using the exemption to file for election in conjunction with another person's campaign. If a candidate must disclose where their money comes from a link may be found between two candidates.

SENATOR MCGUIRE said Senator Therriault's point is legitimate. She thinks this is a good provision so long as it is not an extraordinary burden on the APOC and remains consistent with reporting requirements.

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CHAIR FRENCH said there is a perennial candidate for governor in his district who lives in modest circumstances and might not have the resources to file electronically. He thinks the committee should try to be fair to individuals who genuinely run for office and those that are misusing the system.

[2:05:29 PM](#)

MR. JONES said provisions in the bill allow the APOC to grant exceptions to electronic filing.

MR. JONES continued with the section by section analysis. The first two of the electronic filing provisions appear in Sections 5 and 6 of the bill and are based on provisions the Governor proposed. Section 5, page 3, would apply to all municipal candidates and campaigns and would delay the application to legislative candidates until January 1, 2009.

CHAIR FRENCH said electronic filing is a hot button issue. He asked what circumstances might warrant an exception.

MS. MILES said the APOC would prepare a form for an individual to request exemption from electronic filing. The staff would take that request before the five member commission and ask them to make the decision. She expects the APOC would consider the exemption request quite broadly early on since there are still some areas in the state that don't have reliable internet service providers.

CHAIR FRENCH asked which section contained the language that described circumstances that would allow exemptions.

MS. MILES said there is none yet; the language just says "circumstances."

SENATOR MCGUIRE said Section 6, page 3, lines 24-25.

CHAIR FRENCH said the language is also in Section 5, page 3, lines 10-11. He noted there are several dilemmas associated with electronic filing, one being some people just don't like

computers. He asked if the APOC had considered posting hand written disclosures on the web via scanners and PDF files.

MS. MILES said the APOC discussed the idea. A scanned document is not searchable from the relational database however; it might be helpful for mandatory electronic filing because many handwritten reports are very poor quality and difficult to read.

CHAIR FRENCH said if the document is legible, or hand printed in dark ink that might address the scanning problem.

MS. MILES agreed but a scanned document would still not be searchable in the database.

CHAIR FRENCH said he had an idea he would discuss later with Ms. Miles.

[2:12:09 PM](#)

MR. JONES continued with Section 6, page 3, which would apply the electronic filing requirement to candidates for office in municipalities with populations of 15,000 or more. Overall, electronic filing would be mandatory for executive branch financial disclosures July 1, 2007. Then it would become mandatory for legislative offices, for legislative disclosures, or for campaigns for offices in municipalities with populations of 15,000 or more on January 1, 2009. The intent is to stagger implementation to test the technology on the executive branch first.

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SENATOR WIELECHOWSKI asked if the provision would only apply to Anchorage, Juneau, and Fairbanks.

MR. JONES answered he thought it would also apply to the Mat-Su Borough and Kenai Peninsula Borough.

SENATOR WIELECHOWSKI asked what the rationale was for excluding areas with populations less than 15,000.

MR. JONES said he would have to guess. He believes it was because there is more likely to be candidates involved in races in the large municipalities who will have easy access to reliable internet service and for whom electronic filing is less likely to be burdensome.

SENATOR THERRIault said he disagreed with that delineation as many rural communities are well "wired."

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MR. JONES continued to Section 7, page 3, which would apply the pension forfeiture provision that appears in Section 45 to the judicial retirement system. Section 8, pages 3-4, would require the APOC to provide annually updated ethics training courses for lobbyists and their employers.

CHAIR FRENCH asked what the training would consist of.

MS. MILES said she envisions a partnership with the Select Committee on Legislative Ethics to conduct a January in-person training session for lobbyists and lobbyist's employers. Since some lobbyists are not registered in January a PowerPoint presentation of the training could be made available on the APOC website for later access.

CHAIR FRENCH said this sounds like a full day class.

MS. MILES said it could be, but may be a four to six hour class.

SENATOR McGUIRE said training offered to lobbyists and lawmakers should be meaningful and consistent from year to year to avoid confusion.

[2:19:08 PM](#)

MR. JONES said Section 9, pages 4-5 requires lobbyists to file annual affirmations that they attended the ethics training course. Section 10, pages 5-6, would prohibit lobbyists from making or offering gifts that the EBEA would bar the intended recipients from accepting. It also makes conforming changes to the legislative gift provision that appears in Section 22 of the bill. Section 11, pages 6-7 would prohibit former executive branch members from lobbying or registering as lobbyists when the EBEA bars them from doing so. It has the same intent as Section 1 of SB 19 as amended on the Senate floor. The language in Section 11 is a bit more precise as it refers to registration as a lobbyist rather than just performing work as a lobbyist. Section 11 also prohibits lobbying by spouses and domestic partners of legislators. This restriction has been a topic of extensive discussion.

CHAIR FRENCH asked to what degree the legislature has power over individuals who are not sworn into the legislative body.

MR. JONES said he is not sure the legislature has power over individuals not sworn into the body but if a sworn member is

disqualified by virtue of that members' spouse or domestic partner's activities then that would be the way the problem is resolved.

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CHAIR FRENCH asked if he would lose his seat in the legislature if for example, his spouse did something wrong?

MR. JONES answered no. If a spouse decided to go into lobbying, this provision would prohibit any spouse or domestic partner of a legislator from performing lobbying work for compensation. Therefore to not go beyond the reach of the body, one way to resolve the conflict would be for the member to resign.

CHAIR FRENCH asked if his spouse lobbied for the American Cancer Society or for VECO, and she were to take a paycheck, would he be forced or asked to resign or be impeached from office?

MR. JONES said he was not sure of the logistics but he suspected that when the spouse or domestic partner attempted to register as a lobbyist with the APOC, they would point out the problem. He is not certain if the APOC would refuse to accept the registration. Or the person attempting to register could go ahead and lobby, claiming their attempt was refused. Then the legislative body might take action.

SENATOR MCGUIRE asked how it would work if Senator French's wife was lobbying but didn't tell him or if they were divorced.

MR. JONES said the restriction would only apply to a spouse or domestic partner. He stressed that this provision was not proposed by the administration.

SENATOR MCGUIRE asked if constitutionality of the issue had been discussed.

MR. JONES said he only had second or third hand information. He recalled Representative Gruenberg had researched the issue and found under proposed federal law a member of Congress would be prohibited from dealing with his or her own spouse or domestic partner where that person is a lobbyist. In this bill the provision is a blanket prohibition that applies to all lobbying activity.

SENATOR MCGUIRE said the federal standard might be more concrete and reflective.

CHAIR FRENCH said committee members were provided legal analyses of various provisions of the ethics bill. An opinion dated March 22, 2007, suggests prohibiting a spouse or domestic partner from lobbying is unconstitutional. The committee needs to reflect on the balance of the appearance of impropriety and constitutional impingement.

[2:27:20 PM](#)

SENATOR THERRIAULT said perhaps the electorate needs to be relied on to turn a person out of office.

CHAIR FRENCH said there are good and bad lobbyists and good and bad legislators and at some level the public process must be trusted to sort them out.

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MR. JONES said Section 12, page 7, also relates to the previous section by defining domestic partner. Section 13, page 7, includes clean up language regarding provisions that apply to former legislators and former legislative employees. This provision is identical to Section 1 of SB 20 that has been through this committee.

MR. JONES continued on to Section 14, pages 7-10, which includes conforming language for the changes to the legislative gift provisions that appear in Section 22. Section 15, page 10, would reduce from ninety to sixty days the length of the pre-election blackout period for use of state funds for legislative communications with constituents. He said the intent of the reduction is to deal with extended special sessions that can creep close to scheduled elections.

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CHAIR FRENCH opened public testimony on CSHB 109(JUD) am.

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JOHN FARLEIGH, Anchorage, suggested that Section 11 says the state would not be allowed to register a spouse or domestic partner as a lobbyist, so the spouse or domestic partner would be the one breaking the law by lobbying unregistered. He also suggested that this section does not prohibit any lobbying that is done on a volunteer basis.

MR. FARLEIGH believes the prohibition should be expanded and replaced with the term "immediate family member." He stated that children, parents, and siblings are also possible conduits for bribery. He said the House State Affairs Committee liked the

idea but more than one definition of immediate family member in the law caused confusion. He would be satisfied if parents, siblings, and children were included.

MR. FARLEIGH said he appreciates the great lengths the legislature and administration have gone to tighten up ethics guidelines. However, he would hate to see it all be an exercise in futility because there is no section in the bill that increases sanctions for misbehavior other than the loss of pension. He suggested that for the worst possible violations incarceration is a valid option. He also believes fines should be increased dramatically to give meaningful teeth to the legislation.

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TOM BRICE, Alaska District Council of Laborers, Juneau, testified against the state's current nepotism policy, which was based on an attorney general opinion written in March 2005. The policy redefines workplace relationships so that family members can no longer work together in any employee relationship. This standard is entirely too high for people who perform flagging and other road crew functions for the state. Alaskans should be employed based on merit and not dismissed because of family relationships. He supports the policy that supervisors, as defined in regulation, cannot and should not hire family members, but prohibiting family members from working on the same road crew is too strident and creates an unnecessary barrier to state employment.

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CHAIR FRENCH said he is working with legislative drafters in an effort to craft a measure that allows individuals to continue working for the state without there being any appearance of impropriety.

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MR. JONES continued with a section by section review of the bill including the following:

Section 16, pages 10-11, would require legislators and legislative employees to disclose all board memberships. Currently they are only required to disclose memberships with organizations that have substantial interest in the legislative activities of the legislator or employee, which requires a subjective assessment.

Section 17, pages 11-12, would require publication of legislator's and legislative employee's disclosures of interests in state contracts and leases.

Section 18, pages 12-13, would address the timing of publication and legislator's and legislative employee's disclosures of their participation in state programs and loans and would address procedures for exemption from the disclosure requirement where there are reasons for confidentiality.

Section 19, page 13, would eliminate a current exception for reporting close economic associations between legislators and legislative employees with municipal officers.

Section 20, page 13, includes conforming language for the bar on lobbying by legislators, spouses, and domestic partners.

Section 21, pages 13-14, would allow an exemption for gifts to legislators and legislative employees of up to \$250 in cases of medical or other emergencies. Disclosure and written approval would be required from the chair of the Legislative Council and from the chair or vice-chair of the Select Committee on Legislative Ethics.

Section 22, pages 14-15, increases the restrictions on gifts to legislators and legislative employees.

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SENATOR THERRIAULT asked if Section 22 was new or if it was language included in one of the other bills that passed.

MR. JONES said to his knowledge it did not appear in either SB 19 or SB 20.

CHAIR FRENCH said he assumed Section 22 was addressed previously and asked what changes the provision makes.

MR. JONES said on page 14, lines 27-28, the exception for food and beverage for immediate consumption is moved to the following page so there is really no substantive change there. New language on page 14, line 30 is included to apply the gift restriction to gifts from immediate family members of lobbyists. Currently the restriction applies to gifts from lobbyists only.

SENATOR THERRIAULT asked if it was correct that food for immediate consumption is broken into a new subsection so he could still go to a reception and eat a boiled shrimp.

MR. JONES said yes.

SENATOR THERRIAULT asked if that is separate issue from charity events like the Thanksgiving in March fundraiser.

MR. JONES said that was his understanding.

[2:46:12 PM](#)

SENATOR WIELECHOWSKI asked if other states or the federal government ban lobbyists from buying legislators food.

MR. JONES said he did not know.

SENATOR McGUIRE said Legislative Council will take applications for approval for charitable events. They will then issue a report outlining those events for which a legislator is allowed to accept tickets.

SENATOR THERRIAULT said some exceptions are already allowed but wasn't clear what the argument was for this new provision.

MR. JONES said he was not certain but believes it was a clean-up attempt to try to get everything in one section.

SENATOR THERRIAULT hoped that Joyce Anderson would be available at some point to respond.

CHAIR FRENCH was told that she is due back next week.

[2:48:34 PM](#)

MR. JONES continued to Section 23, pages 15-17. The provision includes conforming language for the restrictions on gifts in Section 22, defines immediate family, would bar the Office of Victims Rights from receiving session discounts that other members of the legislative branch may accept, and allow legislators and legislative employees to give each other rides in personal boats, planes, and other vehicles.

Section 24, pages 17-18 would require disclosure of gifts of legal services to legislators and legislative employees, and gifts to immediate family members received because of their connections to legislators or legislative employees. Disclosure would be required within thirty days of receipt of gifts worth \$250 or more.

SENATOR McGUIRE thought this was already the rule.

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CHAIR FRENCH asked if Ms. Miles could respond to Senator McGuire.

MS. MILES said the provision simply adds other gift disclosures that legislators and legislative employees already provide the Select Committee.

MR. JONES said the requirement to disclose gifts within 30 days is new. Currently those disclosures must be filed by March 15 each year.

[2:51:14 PM](#)

MR. JONES continued with Section 25, page 18. It would clarify that the disclosure requirement for gifts received by legislator's and legislative employee's family members applies to immediate family members.

SENATOR MCGUIRE said some discussion of the definition of immediate family member was necessary. The definition has changed and is very far reaching.

CHAIR FRENCH said Senator McGuire brings up a good point. He noted that the definition of family members on Page 16, lines 1-11 is very broadly defined.

[2:53:47 PM](#)

MR. JONES continued to Section 26, page 18. It would bar legislators from accepting outside compensation for legislative, administrative, or political work.

Section 27, pages 18-19, was the product of a floor amendment. It would bar legislators and legislative employees from representing themselves or others before legislative or executive branch agencies, committees, or other entities except when they are doing so for their official duties. It would require disclosure of their representation for compensation if they appear before municipal boards and commissions. He said a concern that has come up is this would, if the language was taken to a ridiculous extent, prohibit a legislator from going to the Division of Motor Vehicles to apply for a driver's license or from calling the state troopers for an accident. He does not believe that was the intent and as written it may have unanticipated and absurd effects.

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CHAIR FRENCH said this section has been the subject of much discussion.

[2:56:58 PM](#)

SENATOR WIELECHOWSKI wondered if Section 26 would ban a legislator from doing any kind of attorney work.

CHAIR FRENCH replied this topic was previously addressed by Legislative Legal Affairs and the answer was no.

SENATOR WIELECHOWSKI said he wanted further clarification.

CHAIR FRENCH said the language in Section 26 of this bill was contained in SB 64 that came through this committee.

SENATOR WIELECHOWSKI restated his question.

MR. JONES said no, the provision would not bar a legislator from performing legal work.

SENATOR WIELECHOWSKI asked what kind of legal work it would ban.

MR. JONES thought the intent was to prohibit legislators from getting paid by others for doing their official state duties whether that involves legislative, administrative, or political action.

[2:58:51 PM](#)

SENATOR THERRIAULT said previous discussions also included preventing a legislator that holds some sway over an agency from getting paid to represent clientele in front of that agency. He asked who made the amendment on the House floor.

MR. JONES said it was Representative LeDoux.

SENATOR McGUIRE said it is clear that legislators should not get paid for doing their state work or hold an unfair advantage by using their office in a way that would influence a particular result. She is trying to understand what Section 27 is trying to get at.

SENATOR WIELECHOWSKI said he thinks this section unfairly singles out one particular group.

CHAIR FRENCH said he recognized the concerns raised in Section 26 but needs an example of an abuse of this kind of representation to be convinced there is a problem.

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SENATOR MCGUIRE said public opinion poll results say 65% of the public wants a citizen legislature. When lawmakers are working there are always going to be possible conflicts. She believes a point is being reached where in order to serve, a lawmaker must take a sabbatical from their employment and commit to serving the public with no appearance or reality of conflict. She said Senator Wielechowski brings up some good points, and if there is an appearance of impropriety it exists by definition across all sectors.

[3:04:21 PM](#)

CHAIR FRENCH recessed the meeting.

[3:37:20 PM](#)

CHAIR FRENCH reconvened the meeting and continued reviewing HB 109.

MR. JONES continued to Section 27, pages 18-19. It pertains to representation by legislators and legislative employees before legislative and executive branch agencies and requires disclosure of their representation for compensation before municipal boards or commissions.

CHAIR FRENCH said the committee will need to "chew on" this section for some time.

MR. JONES continued with the following section by section reviews:

Section 28, page 19, would require filing legislative disclosures within thirty days after commencement of the matters or interest disclosed. He said the intent was to require matters be disclosed as you go along rather than disclosing them all at once on March 15 of the following year.

Section 29, page 19, would require annual legislative disclosures in addition to the thirty day disclosures.

Section 30, pages 19-20, was part of the Governor's proposal. A similar provision appeared in Section 2 of SB 20. This provision is designed to clear up an ambiguity by requiring final legislative disclosures within ninety days of leaving service. One of the concerns the drafter had about the language in Section 2 of SB 20, was that it might create the impression that someone leaving service in the legislative branch would have to

recap everything that was disclosed during the entire period of service rather than just those things that had not been previously disclosed.

Section 31, page 20, would establish procedures for using alternates when regular legislative members of the Select Committee on Legislative Ethics are unavailable.

Section 32, pages 20-21, would define the majority organizational caucus for those provisions that deal with the Select Committee.

CHAIR FRENCH asked if the next five or six were provisions brought to the other body by request of the Select Committee on Legislative Ethics.

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MR. JONES thought that was correct.

MR. JONES continued with his analysis. Section 34, pages 21-22, would require the Select Committee to publish legislative ethics materials and administer a legislative ethics course.

Section 35, page 22, would require legislators, legislative employees, and public members of the Select Committee to take the course. The ethics course would be required once per legislature and be offered within the first ten days of the first session but also be available to others who could not attend it during that first ten day period.

CHAIR FRENCH asked if this pertains to all legislators no matter how long they have been in office.

MR. JONES answered yes.

CHAIR FRENCH suggested breaking the course into two sections, one of them being a refresher course for those that were already familiar with the information.

SENATOR McGUIRE agreed the idea needs work. The course should refresh the rules and highlight hypothetical situations to cover the grey areas. For returning legislators a refresher would be appropriate.

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MR. JONES said the Select Committee would have flexibility to adjust the courses to circumstances of participants so everyone does not have to take the same course.

MR. JONES said Section 36, pages 22-23, was requested by the Select Committee on Legislative Ethics. It would authorize the Select Committee and the APOC to request opinions of the Select Committee. The committee wanted the ability to ask itself some questions instead of having to wait for questions from legislators or others before it could issue clarifying opinions. The provision also would require the Select Committee to publish its opinions with deletions to protect the identities of the people involved, would make deliberations confidential unless the people affected waived confidentiality, and the final votes on opinions would be made public.

Section 37, page 23, would address the procedures for hearing formal charges before the Select Committee.

Section 38, pages 23-24, would identify who would be administering the remedies for violations of legislative ethics provisions.

Section 39, pages 24-26, which was included in the Governor's original bill, would require more detail about income and deferred income in legislative financial disclosures. This provision is similar to Section 3 of SB 20. It more specifically includes an exception for confidential information and requires public members of the Select Committee to disclose the amount and source of income they receive over \$1000.

Section 40, page 26, would require final legislative financial disclosures within ninety days of leaving service. Public members of the Select Committee, legislative directors, and legislators appointed to fill vacant seats would be required to file financial disclosures within thirty days of appointment.

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MR. JONES said Section 41, page 26, would make electronic filing mandatory for legislative financial disclosures, effective January 1, 2009.

Section 42, page 26, would require the APOC to notify the Legislative Council if the victim's advocate failed to file a timely financial disclosure.

Section 43, pages 26-27, includes conforming language for the changes in section 22 to the legislative gift provisions.

Section 44, page 27, would give the Alaska Retirement Management Board authority to administer the pension forfeiture provision that appears in the Section 45.

Section 45, pages 27-28, provides for forfeiture of the state's retirement contributions made on behalf of a public officer, legislator, or legislative director after that person is convicted of a felony such as bribery or perjury in connection with official duties. It would also allow the Retirement Management Board to award some or all of the forfeited amount to the spouse, dependent or former spouse of the convicted person. Factors that may affect the award are the role that the person may have played in connection with the illegal conduct, the degree to which the spouse, dependent, or former spouse may have profited financially, or any restitution ordered by the court.

CHAIR FRENCH asked if the language was modeled after a congressional code.

MR. JONES said he did not know but Senator Therriault indicated it was based on federal language.

CHAIR FRENCH posed a hypothetical situation of spouse's claim to an offending spouse's retirement account based on their knowledge of the offense.

MR. JONES said he is not sure whether the Retirement Management Board would take into account the knowledge of the spouse, but guessed that they would.

CHAIR FRENCH said he agrees with punishing culpable conduct and can see where the provision is aiming but does not think it hits the mark.

MR. JONES said the language on page 28, line 7, refers to considering the totality of the circumstances.

SENATOR McGUIRE said when a lawmaking body highlights sections or factors for consideration those become dominating and controlling. If a spouse were a party to illegal conduct then that should be considered under the general totality of circumstances. If the spouse or family member wasn't involved in the illegal conduct restitution should not be a relevant factor.

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MR. JONES said he believes it would have more relevance if the money that was being withheld would actually go to the person that deserves restitution, but it is not clear that's what would happen under this provision

MR. JONES said Sections 46 and 47, page 28, would make the pension forfeiture provision applicable to the Public Employee's Retirement System (PERS). The two sections apply to the old defined benefit system and the new defined contribution system.

Section 48, pages 28-29, would require final financial disclosures from public officials within ninety days of leaving service. This was part of the Governor's original bill and has the same intent as SB 19, Section 2.

Section 49, pages 29-31, also part of the Governor's original proposal, would require more detail in public official's financial disclosures.

Section 50, page 31, includes up-date language in various statutes for limited liability companies (LLC).

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CHAIR FRENCH asked if there was any intersection between this section and the section modified by public initiative relating to reporting requirements and amounts of income required to be reported.

MR. JONES said no. The public initiative related to legislative disclosure rather than for public officials.

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MR. JONES said Section 51, pages 31-34 and Section 52, pages 34-35, relate to blind trusts. They reflect advice that the House Judiciary Committee got from attorney David Shaftell who is an experienced practitioner in the area of trusts. His suggestions were aimed at making these provisions more effective in creating a workable framework for blind trusts. Blind trusts are not mandatory under the public official's chapter of Title 39. The goal of the blind trust would be to allow public officials to have outside assets managed by another to avoid conflicts of interest.

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MR. JONES said Section 53, page 35, would require public officials to file financial disclosures electronically. This

would be the first stage in the staggered implementation of electronic filing.

CHAIR FRENCH asked if there are any electronic filing mechanisms now for putting disclosures online. For the record he noted that Ms. Kempton shook her head no. He said there are two issues; one being electronic filing and the other electronic posting, and asked Ms. Miles which are implicated by these sections.

MS. MILES said both.

CHAIR FRENCH this is a new development in the electronic landscape. At this point anybody who wants to see a public officials disclosure form has to request a copy from APOC.

MS. MILES agreed.

CHAIR FRENCH asked if the administration supports the deadlines.

MR. JONES said yes.

MR. JONES added that this set of electronic filing requirements were part of the Governor's original bill. Additionally, the electronic filing requirements for these disclosures would be subject to exceptions where circumstances warranted granted by the APOC.

[4:03:55 PM](#)

MR. JONES said Section 55, page 36, contains additional clean up language for LLCs.

Section 56, page 36, adds to the existing list of executive branch boards whose members must file financial disclosures with the APOC. This provision was not in the Governor's original bill though it was in an amendment she sought.

[4:04:19 PM](#)

SENATOR McGUIRE said an exception to the electronic filing rule should not be that someone is generationally challenged and just does not like to use computers.

MR. JONES said that would be up to APOC to determine.

SENATOR McGUIRE asked why the boards and commissions listed in Section 56 were added as opposed to others.

MR. JONES said a list of all the boards and commissions was compared to the current list in AS 39.50.200. If the board or commission has control of significant money or issues that make it appropriate for the public to know what members' financial interests are, it was added to the provision.

MR. JONES said Section 57, page 36, deals with the definition of an insignificant financial interest in a business under the EBEA. This was part of the Governor's original bill and is similar to Section 4 of SB 19, but it expressly applies to an option to purchase an interest in a business.

SENATOR McGUIRE said it would be helpful in the future if examples were provided outlining what those interests might be.

MR. JONES said this provision applies to the Executive Branch Ethics Act.

[4:08:37 PM](#)

MR. JONES said Section 58, pages 36-37, would bar executive branch members and their immediate family members from accepting most gifts from lobbyists. This provision is similar to what was discussed in SB 64.

Section 59, page 37, would eliminate the exception for work on legislation and regulations under existing restrictions that apply to former executive branch members employment for two years after leaving state service. This was also part of the Governor's bill and similar to Section 5 of SB 19. The language in this provision specifies "a" bill or "a" resolution. The importance of this is the language in SB 19 could be interpreted to mean if someone worked on any legislation during their service they would be barred for two years from working on all legislation after leaving state service.

Section 60, page 37, would extend the current lobbying ban which applies for one year after leaving state service, to deputy heads of principle departments and persons who hold policy making positions in the Governor's Office. Mr. Jones said this is one of the Governor's priorities and is similar to Section 6 of SB 19, but the provision in SB 19 applies to many more positions than covered here.

Section 61, pages 37-38, would bar for one year after leaving state service, former heads of principal departments and Governor's Office employees in policy making positions from serving on boards or other governing bodies of organizations

that they either regulated or worked with as part of their official duties. The provision also defines "employee of the Office of the Governor in a policy making position."

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MR. JONES said Section 62, page 38, would require the governor to disclose any benefit to his or her own financial interest before granting clemency. It would also require the attorney general to publish a written determination of whether granting clemency in light of those interests would violate the EBEA.

Section 63, page 38, would make the Administrative Procedures Act (APA) applicable to the Alaska Retirement Management Board's administration of the pension forfeiture provision in Sections 44 and 45 of the bill.

Section 64, page 38, repeals two provisions; existing procedures for disqualification of legislative members of the Select Committee and appointment of alternates, and the existing definition of immediate family or family member.

CHAIR FRENCH asked if the deletion of the definition of immediate family member was because of the new provision expanding the definition.

MR. JONES said yes.

SENATOR McGUIRE noted that if the committee does reconsider the definition of immediate family member a concurrent change would be necessary in this section.

CHAIR FRENCH agreed.

[4:13:12 PM](#)

SENATOR WIELECHOWSKI asked for clarification of the repeal of Section 24.60.037(d).

MR. JONES said that section is being replaced by a new Section 33 which addresses procedures for disqualification of legislative members of the Select Committee and for appointment of alternates.

[4:14:07 PM](#)

MR. JONES continued with Section 65, pages 38-39. This provision makes an addition to the uncodified law by addressing applicability. It is similar to section 9 of SB 19.

Section 66, page 39, would apply the pension forfeiture provision to the former elected public officers retirement system. Section 67, page 39, establishes an effective date of January 1, 2009, for the electronic filing provisions that effect legislative offices and offices of large municipalities. Section 68, page 39, establishes a July 1, 2007, effective date for the electronic filing provision for public officials. Section 69, page 39, establishes an immediate effective date for everything else.

MR. JONES noted that he was working with Mr. Brice who testified earlier regarding nepotism, on a proposed amendment. They hope the amendment will address his concerns without compromising the principals that underlie the ethics act.

[4:17:16 PM](#)

CHAIR FRENCH thanked MR. JONES for his efforts.

SENATOR WIELECHOWSKI asked for a comparative list of SB 19 and SB 20 provisions versus HB 109.

MR. JONES said he would provide copies for the committee.

There being no further business to come before the committee, Chair French adjourned the meeting at [4:18:00 PM](#).