

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 9, 2010

8:07 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Paul Seaton, Vice Chair
Representative Carl Gatto
Representative Craig Johnson
Representative Peggy Wilson
Representative Max Gruenberg
Representative Pete Petersen

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commissioner, Department of Military & Veterans' Affairs

Thomas Katkus - Camp Denali

- CONFIRMATION ADVANCED

HOUSE CONCURRENT RESOLUTION 20

Proclaiming the month of April 2010 to be Sexual Assault Awareness Month.

- MOVED OUT OF COMMITTEE

HOUSE BILL NO. 409

"An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain communications in state election campaigns; and providing for an effective date."

- MOVED CSHB 409(STA) OUT OF COMMITTEE

HOUSE BILL NO. 251

"An Act relating to liens on vehicles; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HCR 20

SHORT TITLE: SEXUAL ASSAULT AWARENESS MONTH

SPONSOR(s): REPRESENTATIVE(s) FAIRCLOUGH

02/17/10 (H) READ THE FIRST TIME - REFERRALS
02/17/10 (H) STA
03/09/10 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 409

SHORT TITLE: CAMPAIGN EXPENDITURES

SPONSOR(s): STATE AFFAIRS

02/26/10 (H) READ THE FIRST TIME - REFERRALS
02/26/10 (H) STA, JUD
03/02/10 (H) STA AT 8:00 AM CAPITOL 106
03/02/10 (H) Heard & Held
03/02/10 (H) MINUTE(STA)
03/09/10 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 251

SHORT TITLE: VEHICLE LIENS/TOWING/STORAGE/TRANSPORT

SPONSOR(s): RAMRAS

01/08/10 (H) PREFILE RELEASED 1/8/10
01/19/10 (H) READ THE FIRST TIME - REFERRALS
01/19/10 (H) STA, JUD
03/09/10 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

BRIGADIER GENERAL THOMAS KATKUS, Adjutant General/Commissioner
Department of Military and Veterans' Affairs (DMVA)
Camp Denali, Alaska

POSITION STATEMENT: Testified as appointed adjutant
general/commissioner of the Department of Military and Veterans'
Affairs.

MAJOR MIKE COONS, Executive Officer
Central Command
Alaska State Defense Force
Fort Richardson, Alaska

POSITION STATEMENT: Testified during the confirmation hearing for Brigadier General Katkus.

REPRESENTATIVE BOB HERRON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: His testimony supporting the appointment of Brigadier General Katkus as Adjutant General/Commissioner of the Department of Military and Veterans' Affairs was read by Chair Lynn.

REPRESENTATIVE FAIRCLOUGH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, thanked the committee for hearing HCR 20.

KAREN SCHUESSLER, Staff
Representative Anna Fairclough
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HCR 20 on behalf of Representative Fairclough, prime sponsor.

MICHAEL SICA, Staff
Representative Bob Lynn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Discussed the changes made in the proposed committee substitute (CS) for HB 409, Version 26-LS1495\E, Bullard, 3/2/10, on behalf of the House State Affairs Standing Committee, prime sponsor, which is chaired by Representative Lynn.

ALPHEUS BULLARD, Attorney at Law
Legislative Legal Council
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 409.

REPRESENTATIVE JAY RAMRAS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 251 as prime sponsor.

MARGARET RABY

Alaska Towing Association (ATA); Badger Towing
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 251.

KEN STORLIE, Owner

Borealis Towing
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 251.

MARK DAVIS, Owner

Interior Towing & Salvage
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 251.

SHAWN HESS

S & S Towing & Recovery
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 251.

ACTION NARRATIVE

[8:07:16 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Seaton, Gatto, Johnson, Petersen, and Lynn were present at the call to order. Representatives Wilson and Gruenberg arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

COMMISSIONER, DEPARTMENT OF MILITARY & VETERANS' AFFAIRS

[8:08:18 AM](#)

CHAIR LYNN brought before the committee the appointment of Brigadier General Thomas Katkus as commissioner for the Department of Military and Veterans' Affairs. [The committee packet contains biographical information on Brigadier General Katkus.]

[8:08:47 AM](#)

BRIGADIER GENERAL THOMAS KATKUS, Adjutant General/Commissioner, offered a brief personal history and introduction to his military service. He stated that he is a federally recognized general officer in the U.S. Military, has attended War College,

has a Master's degree in Strategic Studies, and fully meets the qualifications of general officer.

[8:12:11 AM](#)

BRIGADIER GENERAL KATKUS, in response to Representative Gatto, spoke about his family.

[8:13:14 AM](#)

CHAIR LYNN thanked Brigadier General Katkus for his service.

[8:13:34 AM](#)

MAJOR MIKE COONS, Executive Officer, Central Command, Alaska State Defense Force, said he has spoken with Brigadier General Katkus regarding changes to the Alaska State Defense Force in the last year and a half. He emphasized the importance of making the Alaska State Defense force known, and he stated his support of Brigadier General Katkus' appointment.

[8:15:30 AM](#)

REPRESENTATIVE BOB HERRON, Alaska State Legislature, had his testimony read by Chair Lynn, as follows:

For the record, Mr. Chairman, ... General Katkus is of high caliber, has a strong, moral fiber, and is a valuable asset to Alaska. My interaction these several months, during our frequent visits to the communities and homes of ATG members has been and continues to be outstanding. Obviously from his resume, General Katkus has truly come up through the ranks and can relate to service men and service women with understanding and compassion, yet with high expectations of himself and those who serve under his command. Mr. Chairman, please forward the general's name to the joint session of the Alaska Legislature, with the complete confidence in his ability to serve our state.

CHAIR LYNN described Brigadier General Katkus as a "mustang." He explained that in the U.S. Air Force, that is a term that applies to someone who has risen through the military ranks.

[8:17:12 AM](#)

REPRESENTATIVE GRUENBERG said that is a term that was also used in the U.S. Navy. He stated his support of Brigadier General Katkus' nomination.

[8:17:24 AM](#)

REPRESENTATIVE SEATON moved to advance the confirmation of Brigadier General Katkus to the joint session of the House and Senate. There being no objection, the nomination of Brigadier General Katkus to the position of adjutant general/commissioner of the Department of Military and Veterans' Affairs was advanced.

The committee took an at-ease from [8:18:09 AM](#) to [8:19:24 AM](#).

HCR 20-SEXUAL ASSAULT AWARENESS MONTH

[8:19:27 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE CONCURRENT RESOLUTION NO. 20, Proclaiming the month of April 2010 to be Sexual Assault Awareness Month.

[8:19:52 AM](#)

REPRESENTATIVE FAIRCLOUGH, Alaska State Legislature, as prime sponsor, thanked the committee for hearing HCR 20.

[8:20:08 AM](#)

KAREN SCHUESSLER, Staff, Representative Anna Fairclough, Alaska State Legislature, presented HCR 20 on behalf of Representative Fairclough, prime sponsor. She stated that sexual assault affects men, women, and children of all racial, cultural, and economic backgrounds. Furthermore, a person is 2.6 times more likely to be sexually assaulted in Alaska than any other state in the nation. Ms. Schuessler said sexual assault leaves a long-lasting physical [and] emotional scar that can influence every aspect of an individual's life. She urged the committee to support the proposed resolution.

[8:20:58 AM](#)

REPRESENTATIVE GATTO directed attention to language on page 1, line 8, which read: "one in 11 men will report being victims of sexual violence". He asked if there is a ratio of reported versus probable incidents. He said it is surprising and almost

unrealistic that 10 percent of men have sexual violence done to them.

[8:21:41 AM](#)

REPRESENTATIVE FAIRCLOUGH responded that the number reported was gleaned from a survey. She offered her perspective that men experience more difficulty in reporting having been a victim of sexual assault. Representative Fairclough said there is a specific way in which rape is defined, but there are "many other things that are inappropriate" that are not "counted." She stated that sexual assault is in itself difficult to talk about, and people report it on blind surveys, which is the source of the aforementioned statistic. In response to a follow-up question, she said if a person is assaulted repeatedly, that would be counted as one person being assaulted, but multiple incidences of violence. If the state were to prosecute, there would be individual infractions against the perpetrator.

[8:24:06 AM](#)

CHAIR LYNN said he imagines there are far more incidences [of rape] of men, women, and children, than are ever reported.

REPRESENTATIVE FAIRCLOUGH related that she used to work as the executive director of Standing Together Against Rape (STAR), and she reported that rape crisis centers, domestic centers, and suicide lines receive hundreds, if not thousands, of calls every year that "don't really count in the numbers that you see before you today."

[8:24:37 AM](#)

REPRESENTATIVE FAIRCLOUGH, in response to a question from Representative Gruenberg, said 95-98 percent of the clientele receiving service at STAR's physical location were women. She stated, "That leads me to believe that if one in eleven men are effected, they are less likely to seek support services, but that's [antidotal]."

REPRESENTATIVE GRUENBERG said he doesn't know what needs to be done, but hopes that both men and women would feel equally comfortable in seeking out services. He noted that security of the crisis centers is an issue, and he mentioned legislation that was introduced a few years ago related to that issue.

[8:26:24 AM](#)

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony.

[8:26:32 AM](#)

REPRESENTATIVE SEATON encouraged continued emphasis on public awareness and "other mechanisms" to bring down the high rate of sexual assault in Alaska. He thanked the sponsor for bringing forward HCR 20.

CHAIR LYNN invited other legislators to co-sponsor the resolution.

[8:27:18 AM](#)

REPRESENTATIVE FAIRCLOUGH invited the committee to take place in a governor-sponsored walk from the steps of the capitol, which she said would take place on March 31, 2010, at noon.

CHAIR LYNN requested that Representative Fairclough make that announcement on the House floor and to put notices up in the capitol building.

REPRESENTATIVE FAIRCLOUGH noted that representatives from the Alaska Network on Domestic Violence and Sexual Assault are present in Juneau today and tomorrow and should be visiting offices around the capitol.

[8:28:27 AM](#)

REPRESENTATIVE SEATON moved to report HCR 20 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCR 20 was reported out of the House State Affairs Standing Committee.

The committee took an at-ease from [8:29:08 AM](#) to [8:30:26 AM](#).

HB 409-CAMPAIGN EXPENDITURES

[8:30:28 AM](#)

CHAIR LYNN announced that the next order of business was HOUSE BILL NO. 409, "An Act relating to state election campaigns, the duties of the Alaska Public Offices Commission, the reporting and disclosure of expenditures and independent expenditures, the filing of reports, and the identification of certain

communications in state election campaigns; and providing for an effective date."

[8:31:11 AM](#)

REPRESENTATIVE SEATON moved to adopt the proposed committee substitute (CS) for HB 409, Version 26-LS1495\E, Bullard, 3/2/10, as a work draft.

[8:31:45 AM](#)

REPRESENTATIVE GRUENBERG objected for discussion purposes.

[8:32:03 AM](#)

MICHAEL SICA, Staff, Representative Bob Lynn, Alaska State Legislature, on behalf of the House State Affairs Standing Committee, prime sponsor, which is chaired by Representative Lynn, discussed the changes to HB 409 proposed in the committee substitute (CS), Version E. He said the intent of the proposed CS is to enact laws that address disclosures and disclaimers for independent expenditures by corporations, labor unions, and limited liability companies (LLCs). He highlighted the following proposed new language: on page 3, Section 4, regarding disclosures; on page 5, Section 10, regarding disclaimers; and on page 6, Section 11, regarding personal liability for a chief officer in a corporation in the event of statements that are defamatory. He directed attention to Section 12, and said the committee had passed an amendment that "basically creates a 24-hour rule for reporting the expenditure." Mr. Sica noted that in the committee packet is a checklist regarding Version E, as well memorandums from Legislative Legal and Research Services.

[8:35:03 AM](#)

MR. SICA, in response to Chair Lynn, reminded the committee that Amendment 3a, which changed the requirement for filing an independent expenditure report with the Alaska Public Offices Commission (APOC) from "not later than three days after an expenditure has been made" to "not later than 24 hours after an expenditure has been made", was adopted. He mentioned the language in Amendment 3b, which had been tabled.

[8:36:26 AM](#)

CHAIR LYNN moved to take from the table Amendment 3b. [There being no objection, Amendment 3b was before the committee.]

[8:36:36 AM](#)

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 1, [Amendment 3b, with line numbers changed to reflect Version E], which read as follows:

Page 6, lines 13 - 17:

Delete "An expenditure report filed under this subsection must include any expenditure not yet reported that was made before the filing of the report. However, an expenditure that exceeds \$250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made."

There being no objection, Conceptual Amendment 1, to Version E, was adopted.

[8:38:03 AM](#)

REPRESENTATIVE GRUENBERG removed his objection to the motion to adopt the proposed committee substitute (CS) for HB 409, Version 26-LS1495\E, Bullard, 3/2/10, as a work draft. There being no further objection, Version E was before the committee.

[8:38:40 AM](#)

CHAIR LYNN moved to adopt Amendment 2, labeled 26-LS1495\E.1, Bullard, 3/3/10, which read as follows:

Page 4, following line 9:

Insert a new bill section to read:

"* **Sec. 7.** AS 15.13.067 is amended to read:

Sec. 15.13.067. Who may make expenditures. Only the following may make an expenditure that is not an independent expenditure in an election for candidates for elective office:

- (1) the candidate;
- (2) an individual;
- (3) a group that has registered under AS 15.13.050; and
- (4) a nongroup entity that has registered under AS 15.13.050."

Renumber the following bill sections accordingly.

Page 4, line 29, through page 5, line 6:
Delete all material.

Renumber the following bill sections accordingly.

Page 7, line 13:
Delete "AS 15.13.067 and 15.13.140(a) are"
Insert "AS 15.13.140(a) is"

REPRESENTATIVE GRUENBERG objected for discussion purposes.

[8:39:32 AM](#)

MR. SICA explained that at the last hearing, the committee adopted an amendment that inserted "independent" before "expenditure" and "expenditures", and unintentionally did not speak to the fact that there are expenditures beyond independent expenditures, for example, expenditures made by "candidates or someone in coordination with a candidate." Amendment 2 relates to AS 15.13.067 and specifies who may make expenditures that are not independent expenditures.

[8:40:50 AM](#)

REPRESENTATIVE GRUENBERG noted grammatical changes currently proposed in Version E, throughout the language in Section 9, on page 4, line 29, through page 5, line 6: "[IN]" would be changed to "on". He said that is an important change that would be lost if Amendment 2 is adopted. He said he thinks that the bill drafter probably wants to delete the reference on page 6, line 5, to AS 15.13.067(3).

[8:42:41 AM](#)

ALPHEUS BULLARD, Attorney at Law, Legislative Legal Council, Legislative Legal and Research Services, Legislative Affairs Agency, indicated that Representative Gruenberg's suggestion to leave the grammatical changes in the bill would do no harm.

[8:43:13 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Conceptual Amendment 1 to Amendment 2, so that Section 9 of the bill would not be deleted, [and the reference in Section 9 to AS 15.13.067(3) would remain in Version E].

CHAIR LYNN asked Mr. Bullard if Conceptual Amendment 1 to Amendment 2 speaks to the heart of the bill and is necessary.

[8:45:58 AM](#)

MR. BULLARD answered that Conceptual Amendment 1 to Amendment 2 would have no substantive effect, and while it may be "nice" for all grammar in statute to be perfect, it is not legally necessary.

[8:46:29 AM](#)

REPRESENTATIVE SEATON objected to Conceptual Amendment 1 to Amendment 2. He said the new Section 7 proposed in Amendment 2 seems to conflict with Section 9, because the language in each varies regarding those who can make expenditures.

MR. BULLARD clarified that Section 9 speaks to who may make expenditures on behalf of a candidate, while the proposed new Section 7 "is a little bit more global," because "it speaks to who may make expenditures that are not independent expenditures under the chapter, not just on behalf of a candidate." In response to a follow-up question, he said while paragraph (1), in Section 9, addresses expenditures authorized by or on behalf of a candidate, paragraph (2) proposes that only a group's campaign treasurer may make expenditures for that group. He said under the proposed Section 7 in Amendment 2, a group campaign treasurer would be allowed to make campaign expenditures, if that group is registered.

[8:52:26 AM](#)

MR. BULLARD, in response to Chair Lynn, reiterated that Conceptual Amendment 1 to Amendment 2 would have no substantive effect of which he is aware.

[8:52:41 AM](#)

REPRESENTATIVE GRUENBERG noted that the language in the aforementioned AS 15.13.067 is included in the proposed new Section 7 in Amendment 2. He asked Mr. Bullard why it is important to take out the reference to AS 15.13.067(3), as proposed in Version E.

[8:54:11 AM](#)

MR. BULLARD explained that in Version E, AS 15.13.067 would be repealed, which is why the reference to that statute would be removed.

REPRESENTATIVE GRUENBERG reiterated that if Amendment 2 is adopted, reference to that statute would be in the bill.

[8:54:37 AM](#)

REPRESENTATIVE GRUENBERG withdrew [Conceptual] Amendment 1 to Amendment 2.

[8:54:48 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 2 to Amendment 2, so that Section 9 of the bill would not be deleted, and the reference in Section 9 to AS 15.13.067(3) would be left in Version E.

[8:55:48 AM](#)

MR. BULLARD offered his understanding that Amendment 2 to Amendment 2 is the same conceptual amendment as was the withdrawn Conceptual Amendment 1 to Amendment 2. In response to a follow-up question, he said he would describe the reference [to AS 15.13.067(3), on page 5, line 5, of Version E], as a "helpful reference." He stated that currently a group that makes expenditures is required to be registered under AS 15.13.050, whether or not that is referenced in 15.13.067.

[8:57:12 AM](#)

REPRESENTATIVE P. WILSON said she does not understand why [the reference to AS 15.13.067] is being retained when it is covered in another statute.

REPRESENTATIVE GRUENBERG opined that it is helpful to have reference to current law in this section.

[8:57:44 AM](#)

REPRESENTATIVE SEATON objected to Amendment 2 to Amendment 2.

[8:57:54 AM](#)

A roll call vote was taken. Representatives Gatto, Gruenberg, and Petersen voted in favor of Amendment 2 to Amendment 2.

Representatives Johnson, Seaton, Wilson, and Lynn voted against it. Therefore, Amendment 2 to Amendment 2 failed to be adopted by a vote of 3-4.

CHAIR LYNN said he would like the committee to focus on the substance of the bill rather than "tweaking the grammar."

[8:58:52 AM](#)

REPRESENTATIVE GRUENBERG removed his objection to Amendment 2.

[8:59:07 AM](#)

REPRESENTATIVE GATTO noted that throughout Version E, references to candidate, group, nongroup entity, and individual were replaced with the term, "person"; however, the proposed Amendment 2 includes all those eliminated terms. He asked if that is intentional.

[9:00:06 AM](#)

MR. BULLARD responded as follows:

That language does different things in different sections of the bill. In Section 1, that's a section that just provides to whom the chapter is applicable. There, by removing that language, "candidate", "group", "nongroup entity", "municipality", or "individual", ... it makes clear that AS 15.13 - state elections - applies to all persons equally.

In the amendment, for example, the restored Section 7 speaks to who may make expenditures that are not independent expenditures: a candidate, individual, group, or nongroup entity. I did not want there to be any risk that there may be some perceived loophole that a corporation or a union - the subject of Citizens United - would be able to make ... expenditures. Citizens United deals only with independent expenditures. That's why that language is restored.

[9:01:16 AM](#)

CHAIR LYNN asked if there was any further objection to Amendment 2. No objection was stated, therefore, Amendment 2 was adopted.

[9:01:34 AM](#)

CHAIR LYNN moved to adopt Amendment 3, labeled 26-LS1495\E.2, Bullard, 3/8/10, which read as follows:

Page 4, following line 9:

Insert a new bill section to read:

"* **Sec. 7.** AS 15.13 is amended by adding a new section to read:

Sec. 15.13.068. Expenditures and contributions by foreign nationals. (a) A foreign national may not, directly or indirectly, in connection with an election under this chapter, make a contribution or expenditure or make an express or implied promise to make a contribution or expenditure.

(b) In this section, "foreign national" includes

(1) a foreign government, every political subdivision of a foreign government, every official, agent, or representative of a foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of a foreign government;

(2) a person outside of the United States, unless it is established that the person is an individual and a citizen of and domiciled in the United States, or that the person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business in the United States;

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; or

(4) a domestic subsidiary of an entity described in (1) - (3) of this subsection or a domestic corporation controlled by an entity described in (1) - (3) of this subsection, if that entity finances, participates in, or selects a person who participates in the making of a contribution or an expenditure of the domestic subsidiary or domestic corporation.

(c) The provisions of this section apply only to the extent permitted by federal law."

Renumber the following bill sections accordingly.

[9:01:44 AM](#)

REPRESENTATIVE SEATON objected for discussion purposes.

[9:01:49 AM](#)

MR. SICA noted that since the adopted Amendment 2 added Section 7, the Section 7 in Amendment 3 would most likely be changed to Section 8. He said Amendment 3 essentially parallels federal law on prohibition of foreign nationals making independent expenditures. He noted that there is a memorandum in the committee packet with further details.

CHAIR LYNN said his prime concern relates to the issue of foreign nationals influencing elections.

[9:02:43 AM](#)

REPRESENTATIVE SEATON recalled that the committee had heard from [Mr. Ptasin], an attorney from the Office of the Attorney General who represents the Alaska Public Offices Commission (APOC), who had testified that it would be difficult to take a violation to either APOC or the state court without language in state law paralleling existing federal law.

[9:03:51 AM](#)

MR. SICA noted that Mr. Ptasin was available telephonically to answer questions.

[9:04:03 AM](#)

REPRESENTATIVE SEATON removed his objection to Amendment 3. There being no further objection, Amendment 3 was adopted.

[9:04:10 AM](#)

MR. SICA directed attention to Amendment 4, labeled 26-LS1495\E.3, Bullard, 3/8/10, which read as follows:

Page 5, line 22, following "the":

Insert "name and city and state of residence or principal place of business, as applicable, of each of the"

Page 5, line 24:

Delete ", with the words "top five contributors."[.]"
Insert "."

Page 6, following line 9:

Insert a new subsection to read:

"(d) To satisfy the requirements of (a)(2)(C) of this section and, if applicable, (a)(2)(D) of this section, the following statement or statements must be read, in a manner that is easily heard, or placed in the communication so as to be easily discernable, or, in a communication that is transmitted by a method that includes both audio and video components, be read in a manner that is easily heard and placed in the communication so as to be easily discernable:

This communication was paid for by (person's name and city and state of principal place of business).

The top contributors of (person's name) are (the name and city and state of residence or principal place of business, as applicable, of the largest contributors to the person under AS 15.13.090(a)(2)(D))."

MR. SICA explained that if Amendment 4 was adopted, Section 10(a)(2)(D), on page 5, beginning on line 22, would read as follows:

(D) identify the name and city and state of residence or principal place of business, as applicable, of each of the person's five largest contributors under AS 15.13.040(e)(5), if any, during the 12-month period before the date of the communication.

CHAIR LYNN said Amendment 4 would add the audio component to campaign advertising.

[9:06:16 AM](#)

REPRESENTATIVE JOHNSON said he thinks the audio would be read so fast that it would not be discernable. People who want to know who sponsors a campaign advertisement can go to a website to find out that information. He said he does not want to clutter the air or obliterate the message, and he warned that doing so could lead to law suits. He said he does not support listing the top contributors.

[9:09:33 AM](#)

CHAIR LYNN moved to adopt Amendment 4 [text provided previously], then he withdrew his motion to adopt Amendment 4.

[9:10:00 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 5, [which is identical to the withdrawn Amendment 4].

REPRESENTATIVE JOHNSON objected.

[9:10:35 AM](#)

REPRESENTATIVE GRUENBERG spoke to Amendment 5. He said the proposed disclaimer is shorter than existing law, which will save time, because it will not require that the physical street or post office box be read - only the company name, city, and state would have to be read.

[9:11:12 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt a conceptual amendment to Amendment 5, which would insert "three" between "The top" and "contributors", and would not require a company's full name. As an example of the latter, Representative Gruenberg said The Coca-Cola Company could shorten its name to Coca-Cola.

[9:12:05 AM](#)

REPRESENTATIVE JOHNSON objected to the conceptual amendment to Amendment 5, saying it would make no difference.

[9:12:42 AM](#)

CHAIR LYNN noted that [Representative Johnson has experience related to television and radio].

[9:13:07 AM](#)

REPRESENTATIVE GRUENBERG maintained that the conceptual amendment to Amendment 5 would shorten the process, and further changes in that direction could be made with further amendments.

[9:13:46 AM](#)

REPRESENTATIVE GRUENBERG in response to Representative Gatto clarified the changes that would be made by the proposed conceptual amendment to Amendment 5.

[9:14:41 AM](#)

A roll call vote was taken. Representatives Gruenberg, Petersen, Seaton, Wilson, and Gatto voted in favor of the conceptual amendment to Amendment 5. Representatives Johnson and Lynn voted against it. Therefore, the conceptual amendment to Amendment 5 was adopted by a vote of 5-2.

[9:15:24 AM](#)

REPRESENTATIVE JOHNSON maintained his objection to Amendment 5 [as amended].

REPRESENTATIVE GRUENBERG stated that the purpose of the proposed bill is to provide transparency. He said Amendment 5, as amended, would help those who are visually impaired know who is behind a (television) advertisement, because they would be able to hear the names of campaign contributors announced.

[9:17:42 AM](#)

MR. BULLARD, in response to Representative Seaton, directed attention to the following language in Amendment 5, as amended: "(d) To satisfy the requirements of (a)(2)(C) of this section and, if applicable, (a)(2)(D) of this section, the following statement or statements must be read". Mr. Bullard explained, "The last two words - 'if applicable' - make that second required disclosure of the top contributors applicable only if the entity has contributed. If there are no contributors, there is no need to disclose the contributors."

REPRESENTATIVE SEATON asked if that provision would still be in the bill without Amendment 5, as amended.

MR. BULLARD directed attention to language on page 5, [lines 22-24], of Version E, which read as follows:

(D) identify the person's five largest contributors under AS 15.13.040(e)(5), if any, during the 12-month period before the date of the communication, with the words "top five contributors."

MR. BULLARD stated that the words, "if any" serve that same function.

[9:19:06 AM](#)

MR. BULLARD, in response to Representative Johnson, said he is not sure how the language of Amendment 5, as amended, would be interpreted if there were 10 contributors donating exactly the same amount.

[9:19:45 AM](#)

REPRESENTATIVE GRUENBERG said he thinks that issue is not problematic, because APOC would issue some kind of regulation on the subject. He said, "Anytime you have a number there, that's something that's going to have to be interpreted."

CHAIR LYNN suggested the line could be drawn by determining the six largest corporations, and that that could be done by regulation.

[9:20:54 AM](#)

REPRESENTATIVE GATTO said if there were six contributors who all gave the same highest amount, they would all be tied for first and, thus, would all have to be listed. Then, if there were two contributors who gave less than the six contributors gave, but the same amount as each other, they would have to be listed in second place, and so on, he said.

REPRESENTATIVE GRUENBERG pointed out, "That's in the bill itself, not in the amendment."

[9:21:17 AM](#)

A roll call vote was taken. Representatives Gruenberg, Petersen, Seaton, and Gatto voted in favor of Amendment 5, as amended. Representatives Wilson, Johnson, and Lynn voted against it. Therefore, Amended 5, as amended, was adopted by a vote of 4-3.

[9:22:34 AM](#)

REPRESENTATIVE GRUENBERG, in response to Representative Seaton, said the adopted Amendment 5, as amended, speaks only to listing contributors during an audio portion of an advertisement. He said it does not relate to other language in the bill related to

numbers of contributors, but said he would not object to a conforming amendment.

9:23:02 AM

REPRESENTATIVE SEATON moved to adopt Conceptual Amendment 6, so that any references to the top five contributors in Version E would be changed to the top three contributors. There being no objection, Conceptual Amendment 6 was adopted.

9:24:02 AM

REPRESENTATIVE PETERSEN moved to adopt Amendment 7, labeled, 26-LS1495\E.5, Wayne/Bullard, 3/8/10, which read as follows:

Page 6, line 4:
Delete "a new subsection"
Insert "new subsections"

Page 6, following line 9:
Insert a new subsection to read:

"(d) If a foreign government holds more than a 10 percent ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as a partial owner of the person. If a foreign government holds more than 50 percent of the ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as the majority owner and controlling interest holder of the person. A foreign government identified in a communication under this subsection must be identified by the foreign government's common or usual name. In this subsection, "foreign government" includes every political subdivision of the foreign government, every official, agent, or representative of the foreign government, and every agency, corporation, or instrumentality of the foreign government or of a political subdivision of the foreign government."

REPRESENTATIVES SEATON and WILSON objected for discussion purposes.

REPRESENTATIVE PETERSEN said there are many companies from around the world who get involved with the extraction of Alaska

resources, and in many instances, these corporations form an Alaskan corporation subsidiary. He opined that it is important that citizens of Alaska know when a foreign-based corporation is making expenditures to influence an Alaska election. He said Amendment 7 allows for transparency.

[9:25:44 AM](#)

REPRESENTATIVE SEATON offered his understanding that by adopting Amendment 3 previously, the committee adopted the federal prohibition on any such subsidiary, which is why he objects to Amendment 7.

[9:26:40 AM](#)

REPRESENTATIVE GRUENBERG questioned if Amendment 7 is wholly unnecessary or just partly.

[9:27:25 AM](#)

MR. BULLARD relayed that Amendment 7 applies to entities that the prohibition in Amendment 3 does not address. He explained that Amendment 3 speaks to entities that are controlled by a foreign national, while Amendment 7 speaks to foreign governments that hold more than a 10 percent ownership interest. He emphasized that there is a difference between the two.

[9:28:10 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that the language in Amendment 7 that is redundant and should be deleted is that which addresses a foreign government that holds more than 50 percent of the ownership interest in a person paying for a communication.

MR. BULLARD said Representative Gruenberg is correct. In response to a query from Representative Gruenberg as to whether the last sentence of Amendment 7 should also be removed, he stated:

The topic is covered, but there is no common definition provided for the chapter, so without further review of how these two work together, it would be my recommendation if you wish to adopt the substance of Amendment 7 ..., that you leave that ultimate sentence.

[9:31:33 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt an amendment to Amendment 7, to delete the following language:

If a foreign government holds more than 50 percent of the ownership interest in a person paying for a communication under (a) of this section, the foreign government must be clearly identified in the communication as the majority owner and controlling interest holder of the person.

There being no objection, the amendment to Amendment 7 was adopted.

[9:33:29 AM](#)

REPRESENTATIVE SEATON cited language in Amendment 3, which read as follows:

(b) In this section, "foreign national" includes
(1) a foreign government, every political subdivision of a foreign government

REPRESENTATIVE SEATON asked, "How is that not what we're talking about in Amendment 7?"

MR. BULLARD responded as follows:

It is absolutely what is discussed in Amendment 7, but that is not a definition that is provided for all of AS 15.13; that is confined to that particular statutory section.

[9:34:34 AM](#)

REPRESENTATIVE SEATON removed his objection to Amendment 7, as amended. [Representative Wilson's previously stated objection was treated as removed.] There being no further objection, Amendment 7, as amended, was adopted.

[9:34:55 AM](#)

REPRESENTATIVE PETERSEN moved to adopt Amendment 8, labeled 26-LS1495\E.6, Wayne/Bullard, 3/8/10, which read as follows:

Page 3, line 27, following "contributor":

Insert "i
(6) for a person that is a for-profit entity, the address used by the person for federal income tax purposes, if different than the address provided under (1) of this subsection"

Page 5, line 21, following "business":

Insert "if the person is a nonprofit entity, or the address used by the person for federal income tax purposes if the person is a for-profit entity"

[9:35:06 AM](#)

REPRESENTATIVE SEATON objected for discussion purposes.

REPRESENTATIVE PETERSEN explained the reason for Amendment 8 is because there are corporations who move their home offices to a foreign location for the purposes of avoiding income taxes.

[9:37:30 AM](#)

MR. BULLARD, in response to Representative Seaton, said the language in Version E - which requires each person required to file an expenditure report under this section to include the name, address, principal occupation, and employer of the individual filing the report - is found on page 3, lines 8-9. Amendment 8 would require that if that person has a different address for tax purposes, that that address would be the address used instead.

REPRESENTATIVE SEATON questioned how it would be possible to determine if a person is correctly reporting an address. In response to Representative Petersen, he offered his understanding that under the proposed bill, foreign nationals and foreign corporations are already not allowed to make campaign contribution expenditures.

[9:40:29 AM](#)

MR. BULLARD, in response to Representatives Seaton and Petersen, stated that if the sole purpose of Amendment 8 is to identify companies that have taken their tax address offshore, it is his understanding that any business or entity that has provided an offshore address would be prohibited, not only under federal law, but also under Amendment 3.

CHAIR LYNN offered his understanding that Amendment 8 is not needed.

[9:41:05 AM](#)

REPRESENTATIVE PETERSEN withdrew his motion to adopt Amendment 8.

[9:41:18 AM](#)

REPRESENTATIVE JOHNSON moved to adopt Conceptual Amendment 9, to change Section 8 in Version E so that it read as follows:

***Sec.8.AS** 15.13.084 is amended to read:

Sec. 15.13.084. Prohibited expenditures. A person may not make an expenditure

(1) anonymously or using a fictitious name or using the name of another person.

REPRESENTATIVE JOHNSON explained that Conceptual Amendment 9 would remove all exceptions to the provision prohibiting expenditures made anonymously.

[9:43:11 AM](#)

MR. BULLARD related:

The U.S. Supreme Court, in [McIntyre, Executor of Estate of McIntyre, Deceased v. Ohio Elections Commission], recognized a certain right for individuals to make certain anonymous contributions if they limited limited rights, and that's what Section 15.13.084 currently provides for. It's crafted to the ... individual who's making certain sort of de minimis contributions for billboards, et cetera. It ... does not apply to ... people spending great amounts of money or persons other than individuals.

REPRESENTATIVE JOHNSON remarked that buying a full-page newspaper advertisement anonymously is neither inexpensive nor de minimis.

[9:44:23 AM](#)

REPRESENTATIVE GATTO said it is common to see names like "Americans for Progress" or "Americans for Health" and wonder who is behind the name. He said he thinks Representative

Johnson is "on to something here," and he related that he does not like anonymous advertising.

[9:44:57 AM](#)

REPRESENTATIVE GRUENBERG emphasized his support of Amendment 9.

REPRESENTATIVE GRUENBERG moved to adopt an amendment to Conceptual Amendment 9 to add a severability clause so that if any provision in the proposed legislation is declared unconstitutional, it shall not affect the remainder of the bill. He asked Mr. Bullard to provide a legal memorandum to the next committee of referral - the House Judiciary Standing Committee - regarding the aforementioned McIntyre case and how it relates to "this point."

[9:46:00 AM](#)

REPRESENTATIVE JOHNSON said he supports the proposed amendment to Conceptual Amendment 9.

[9:46:11 AM](#)

CHAIR LYNN announced that there being no objection, the amendment to Conceptual Amendment 9 was adopted.

CHAIR LYNN asked if there was any objection to Conceptual Amendment 9, [as amended]. There being none, it was so ordered.

[9:47:09 AM](#)

MR. BULLARD, in response to Representative Seaton, confirmed that he would send a legal memorandum to the House Judiciary Standing Committee explaining the intent of the amendment to Conceptual Amendment 9.

[9:48:43 AM](#)

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony.

[9:48:54 AM](#)

REPRESENTATIVE P. WILSON directed attention to advice given by Mr. Bullard in the last paragraph of a memorandum, dated March 3, 2010, [included in the committee packet], which read as follows [original punctuation provided]:

Similarly, if all independent expenditures must be reported to the Alaska Public Offices Commission within 24 hours of being made, there is no need to require an independent expenditure report to include expenditures "not yet reported that [were] made before the filing of the report." This sentence was included in HB 409 (26-LS1495\R) to ensure against the possibility that, in the sentence's absence the statute could be interpreted to permit expenditures that are made 10 days before an election to not be reported until the day following the election, where an expenditure made within nine days of an election would have to be reported within 24 hours of the expenditure being made. If all independent expenditures must be disclosed within 24 hours, this sentence is no longer necessary for the purposes for which it was originally included, is redundant, and should be removed from the bill.

REPRESENTATIVE P. WILSON asked if that issue had been addressed or if another amendment was necessary.

[9:49:41 AM](#)

MR. BULLARD said he believes that was reconciled through [Amendment 3, labeled 26-LS1495\R.3, Bullard, 3/1/10].

[9:50:00 AM](#)

REPRESENTATIVE JOHNSON said he will be working on another amendment in the next committee of referral regarding expenditures made to influence specific legislation and "other things that don't appear in the election." He offered an example.

CHAIR LYNN said he understands what Representative Johnson is saying and concurs.

[9:51:58 AM](#)

REPRESENTATIVE P. WILSON said she does not like misleading information.

[9:52:54 AM](#)

REPRESENTATIVE PETERSEN opined that the committee has made some good changes to the proposed legislation.

[9:53:12 AM](#)

REPRESENTATIVE GRUENBERG moved to report the proposed committee substitute (CS) for HB 409, Version 26-LS1495\E, Bullard, 3/2/10, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 409(STA) was reported out of the House State Affairs Standing Committee.

HB 251-VEHICLE LIENS/TOWING/STORAGE/TRANSPORT

[9:53:43 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 251, "An Act relating to liens on vehicles; and providing for an effective date."

The committee took an at-ease from [9:54:02 AM](#) to [9:54:37 AM](#).

[9:54:46 AM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, presented HB 251 as prime sponsor. He said the issue was brought to him by tow truck operators in his home town. He paraphrased the sponsor statement, which read as follows [original punctuation provided]:

Towing companies provide necessary service to Alaskans through the removal of abandoned, junked, and wrecked vehicles from public thoroughfares and private property. Alaskan towing companies follow prescribed laws in providing these towing services and in most cases are acting under the authorization or direction of public safety officers. Alaskan towing companies should be paid for providing these services to the public. Providing a statutory mechanism so that these small towing businesses are first in line for payment for delivered services will reduce business risk to these companies. House Bill 251 changes the priority in which payments may be made to provide for a fairer business environment to towing companies.

House Bill 251 prioritizes a possessory lien for services lawfully provided in conformity with AS

28.10.502, and requires towing companies to provide timely notification. The prioritization of the possessory lien gives first position to towing companies for the purpose of recouping costs for contractual vehicular towing and storage. HB 251 also adds a layer of consumer protection by requiring a towing company to notify the registered owner and primary lienholder of towing and storage of a vehicle within 7 business days from the date of service.

House Bill 251 corrects a current situation whereby some owners and lienholders may receive services from towing companies without paying for all or part of the charges. Current law does not specifically state a possessory lien has precedence over other perfected liens on a vehicle. Nonpayment for service situations could shift these costs to other Alaskans, raising prices for all. In extreme cases nonpayment may induce business hardships and cause business failure. This is unfair to Alaska's towing companies. Reducing unfair business risk to small companies is in the best interest of the state.

[9:56:56 AM](#)

MARGARET RABY, Alaska Towing Association (ATA); Badger Towing, said ATA represents towing industry members from throughout the state. She said current statute allows towing and storage liens to be placed against any vehicle that a towing company tows and stores at the request of a police officer or other person. The towing company is supposed to receive payment from the person who has interest in the vehicle, at which point the vehicle is released to that person. Unfortunately, she said, there is a loophole in the statute, which says the primary lien holder against the vehicle has priority over the towing company and can clear collateral without paying for the services provided by the towing company. She said towing companies work in partnership with emergency services of Alaska. The only difference, she said, is that towing companies expect to be paid directly, not by taxpayers' money. Ms. Raby opined that it is not appropriate that towing companies should absorb losses for doing services for which the rest of emergency workers get paid. She said the industry would like to see this situation corrected.

[9:59:21 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that the problem arises because [towing companies] have only a possessory lien; therefore, there is nothing to prevent a bank from repossessing a vehicle and destroying the towing company's possessory lien.

MS. RABY confirmed that is the problem.

REPRESENTATIVE GRUENBERG explained that a towing company loses its lien once the vehicle leaves the lot. He said he is not familiar with the language of Title 28. He asked if the towing companies have a right to retain possession of the vehicle until payment is made or if the proposed legislation should be crafted so that the lien would "follow the vehicle."

MS. RABY opined that the lien should be one that follows the vehicle. She stated, "We utilize the possessory lien ... to make sure they get paid, and it works, except in this one situation where a perfected lien takes priority."

REPRESENTATIVE GRUENBERG suggested that the House Judiciary Standing Committee can address that issue, and that the legislature might want to consider making the lien one that would follow the vehicle. He opined that towing companies should be paid first.

[10:01:26 AM](#)

KEN STORLIE, Owner, Borealis Towing, said HB 251 is needed because towing companies are not taking cars at their own volition, but are doing so at the request of others and should be paid. He concluded, "With this lien the way it is, they can just come and take your car."

[10:02:10 AM](#)

MARK DAVIS, Owner, Interior Towing & Salvage, said he was one of the people who brought this matter to the attention of the bill sponsor. He said he sympathizes with the lien holders that sometimes people "get these cars out there and get them into trouble," but said towing companies, as small companies, cannot afford to absorb many situations [in which they do not get paid]. He stated, "There's a few of the lien people who are actually using it to their advantage and are pretty much basically holding us at blackmail, threatening us to go back to check ... through their records to see if they'd ever ... lost any other cars and hold us responsible for any and every car

they ever lost through our particular custody." He opined that the proposed legislation would help correct that problem. He said towing companies are not trying to steal anyone's cars but are just trying to be paid for their services. He said he would deeply appreciate whatever the legislature could do to help towing companies in this regard.

[10:03:08 AM](#)

SHAWN HESS, S & S Towing & Recovery, testifying in support of HB 251. He related an incident in which he showed up on the scene of an accident, recovered the vehicle, and took it back to his towing yard for storage. A credit union hired an attorney and told him he had to return the vehicle to the credit union without being paid, at which point the credit union planned to return the vehicle to its owner. Mr. Hess said he felt that was unfair, and contested that in court, but lost and had to settle with an insurance company in an attempt to be compensated for the recovery of the vehicle.

[10:04:19 AM](#)

REPRESENTATIVE GATTO asked if the Alaska State Troopers would be responsible for the request for towing if the towing company was not paid by any other party.

MR. HESS answered no. He stated, "Unless you take it to their yard, they do not pay your tow bill."

[10:04:55 AM](#)

REPRESENTATIVE GATTO asked if Mr. Hess's company benefits from having a contract with the Alaska State Troopers by being perhaps the only company that gets called to tow vehicles.

MR. HESS answered no. He explained that there are several companies that are on a rotation list with the Alaska State Troopers. Furthermore, he said a majority of the vehicles towed by S&S Towing are left unclaimed and have to be hauled to a landfill at a cost to the company.

[10:05:27 AM](#)

REPRESENTATIVE GRUENBERG requested a copy of the judge's opinion from the aforementioned court hearing.

[10:06:40 AM](#)

CHAIR LYNN closed public testimony.

[10:06:52 AM](#)

CHAIR LYNN announced that HB 251 was held over.

[10:07:51 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:08 a.m.