

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

April 7, 2011

8:13 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Wes Keller, Vice Chair
Representative Paul Seaton
Representative Peggy Wilson
Representative Max Gruenberg
Representative Pete Petersen

MEMBERS ABSENT

Representative Kyle Johansen

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 31(JUD)

"An Act relating to the counting of write-in votes."

- MOVED HCS CSSB 31(STA) OUT OF COMMITTEE

SENATE BILL NO. 93

"An Act relating to special request specialty organization registration plates; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 31

SHORT TITLE: COUNTING OF WRITE-IN VOTES

SPONSOR(S): SENATOR(S) THOMAS, FRENCH, MENARD, WIELECHOWSKI

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	STA, JUD
01/25/11	(S)	STA AT 9:00 AM BUTROVICH 205
01/25/11	(S)	Heard & Held
01/25/11	(S)	MINUTE(STA)
01/27/11	(S)	STA AT 9:00 AM BUTROVICH 205
01/27/11	(S)	Moved CSSB 31(STA) Out of Committee
01/27/11	(S)	MINUTE(STA)
01/28/11	(S)	STA RPT CS 5DP NEW TITLE

01/28/11 (S) DP: WIELECHOWSKI, KOOKESH, PASKVAN,
 MEYER, GIESSEL
 01/31/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 01/31/11 (S) Heard & Held
 01/31/11 (S) MINUTE(JUD)
 02/02/11 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/02/11 (S) Moved CSSB 31(JUD) Out of Committee
 02/02/11 (S) MINUTE(JUD)
 02/04/11 (S) JUD RPT CS 4DP SAME TITLE
 02/04/11 (S) DP: FRENCH, WIELECHOWSKI, PASKVAN,
 MCGUIRE
 02/14/11 (S) TRANSMITTED TO (H)
 02/14/11 (S) VERSION: CSSB 31(JUD)
 02/16/11 (H) READ THE FIRST TIME - REFERRALS
 02/16/11 (H) STA, JUD
 04/05/11 (H) STA AT 8:00 AM CAPITOL 106
 04/05/11 (H) Scheduled But Not Heard
 04/06/11 (H) JUD AT 1:00 PM CAPITOL 120
 04/06/11 (H) <Bill Hearing Rescheduled to 4/8/11>
 04/07/11 (H) STA AT 8:00 AM CAPITOL 106

BILL: SB 93

SHORT TITLE: SPECIALTY LICENSE PLATES

SPONSOR(s): STATE AFFAIRS

02/21/11 (S) READ THE FIRST TIME - REFERRALS
 02/21/11 (S) STA, TRA
 02/22/11 (S) STA AT 9:00 AM BUTROVICH 205
 02/22/11 (S) Heard & Held
 02/22/11 (S) MINUTE(STA)
 03/01/11 (S) STA RPT 2DP 2NR
 03/01/11 (S) DP: WIELECHOWSKI, PASKVAN
 03/01/11 (S) NR: GIESSEL, MEYER
 03/01/11 (S) STA AT 9:00 AM BUTROVICH 205
 03/01/11 (S) Moved SB 93 Out of Committee
 03/01/11 (S) MINUTE(STA)
 03/15/11 (S) TRA AT 1:00 PM BUTROVICH 205
 03/15/11 (S) Moved SB 93 Out of Committee
 03/15/11 (S) MINUTE(TRA)
 03/16/11 (S) TRA RPT 3DP 2NR
 03/16/11 (S) DP: KOOKESH, MENARD, THOMAS
 03/16/11 (S) NR: HUGGINS, EGAN
 03/21/11 (S) TRANSMITTED TO (H)
 03/21/11 (S) VERSION: SB 93
 03/23/11 (H) READ THE FIRST TIME - REFERRALS
 03/23/11 (H) STA, FIN
 04/05/11 (H) STA AT 8:00 AM CAPITOL 106

04/05/11 (H) Scheduled But Not Heard
04/07/11 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

SENATOR BILL THOMAS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 31 as joint prime sponsor.

BRYER HOPKINS, Staff
Senator Joe Thomas
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 31 on behalf of Senator Thomas, joint prime sponsor.

SARAH FELIX, Assistant Attorney General
Labor and State Affairs Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Provided and overview of SB 31 and answered questions.

GAIL FENUMIAI, Director
Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 31.

KARLA HART, Staff
Senator Bill Wielechowski
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 93 on behalf of the Senate State Affairs Standing Committee, sponsor, on which Senator Wielechowski is chair.

STACY OATES, Administrative Officer
Division of Motor Vehicles
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on SB 93.

ACTION NARRATIVE

8:13:18 AM

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:13 a.m. Representatives Keller, Seaton, P. Wilson, Petersen, and Lynn were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

SB 31-COUNTING OF WRITE-IN VOTES

8:14:54 AM

CHAIR LYNN announced that the first order of business was CS FOR SENATE BILL NO. 31(JUD), "An Act relating to the counting of write-in votes."

8:15:18 AM

SENATOR BILL THOMAS, Alaska State Legislature, introduced SB 31 as joint prime sponsor. He said the bill would clarify state statute by using language recommended in the Alaska Supreme Court's Miller v. Treadwell decision - a decision supported by the Alaska State Superior Court, the Federal District Court, and the 2010 General Election review. He said the language is from the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which states explicitly that the director of the Division of Elections will use the determination of the voters' intent as the guiding principle when counting and judging write-in votes. He said SB 31 incorporates the concept that the courts have applied for the last 50 years.

SENATOR THOMAS stated that the goal of SB 31 is two-fold: to clarify language in statute to ensure that in future elections as many Alaska voters as possible are enfranchised; and to clarify existing language and strengthen the public's perception of Alaska's democratic process. The purpose of SB 31 is to put into statute language that the courts have already decided and to ensure that minor misspellings of names on ballots are counted as long as the Division of Elections can determine the intent of the voter.

SENATOR THOMAS said the Office of the Lieutenant Governor has expressed a desire for clarification regarding when someone has to register as a write-in candidate; however, he said this is a separate and more complex issue that he does not wish to address in SB 31.

SENATOR THOMAS, in response to Chair Lynn, said he understands that there is no silver bullet to address the problem, but hopefully voters will study the campaign signs or pamphlets in order to spell a name close enough to its accurate spelling to be understood.

8:22:00 AM

REPRESENTATIVE SEATON directed attention to page 2, line 22, which read as follows:

(c) If the director determines that the requirements of (a) of this section have been met, the director shall establish the place and date for counting those write-in votes, and the director, or a designee of the director, shall count all write-in ballots under AS 15.15.360(d).

REPRESENTATIVE SEATON asked if this would set up a situation in which the director might decide that the recount would be transferred to another regional center.

8:22:55 AM

BRYER HOPKINS, Staff, Senator Joe Thomas, Alaska State Legislature, speaking on behalf of Senator Thomas, joint prime sponsor, explained that all ballots are transferred to Juneau for final write-ballot counting.

REPRESENTATIVE SEATON said he would like to hear feedback from the Division of Elections regarding the retransfer of ballots.

8:24:31 AM

REPRESENTATIVE P. WILSON directed attention to language on page 1, [lines 5-7], which read as follows:

(1) writing in the name of a candidate whose name is printed on the ballot does not invalidate a write-in vote unless the director determines, on the basis of other evidence, that the ballot was so marked for the purpose of identifying the ballot".

MR. HOPKINS explained that "so marked for the purpose of identifying the ballot" means that the person could go back

later and make a public records request and find his/her own ballot.

[8:26:09 AM](#)

REPRESENTATIVE GRUENBERG asked if there might be another reason for invalidating a ballot.

MR. HOPKINS deferred to Ms. Fenumiai.

[8:27:20 AM](#)

MR. HOPKINS referred to the historical election race of 2010, which was won by write-in candidate Lisa Murkowski, the first person to win a write-in race for U.S. Senator since Strom Thurmond in the 1950s. He echoed Senator Thomas's statement regarding the support of the courts in enfranchising voters. Mr. Hopkins directed attention to a one-page handout in the committee packet, which provides quotes from the 2010 U.S. Senate race court findings significant to SB 31. He said the courts have emphasized the importance of determining voters' intent, and have stated that Alaska statute is vague in this matter and, thus, open to various interpretations. He said Lieutenant Governor Mead Treadwell, in an executive summary, recommended amending Alaska statute to clarify the rules of write-in votes and to allow the director of the Division of Elections to disregard misspellings or other minor variations in the form of the candidate's name if the intention of the voter can be ascertained, which would conform Alaska law with recent court rulings on voter intent. He relayed that the lieutenant governor also recommended a new section be added to state statute outlining the process for counting write-in votes currently set out in regulation.

[8:30:13 AM](#)

MR. HOPKINS, in response to Representative Keller, said the bill sponsor considered various options regarding setting the boundaries of the director of the Division of Elections, and then decided to stick with the court's recommendations. He said the courts have said that having one person look at every [write-in] ballot would make the process objective. In response to Chair Lynn, he said the counting of write-in ballots is a public process; each party is allowed one observer who has the ability to challenge the decision of the director.

[8:33:23 AM](#)

CHAIR LYNN remarked upon the difficult nature of determining someone else's intent.

[8:34:35 AM](#)

MR. HOPKINS, in response to Representative Wilson, offered his understanding that the process used to count write-in ballots during the aforementioned 2010 U.S. Senate race is one that is written in regulations, and it is a process that is similar to that used by other states during a recount. He offered further details, and he clarified that two election workers count the ballots, but it is the sole job of the director of the division to determine the intent of the voter for any write-in votes that have been questioned. In response to a question from Representative Keller about statutory authority, he deferred to Ms. Fenumiai, the division director, and to Ms. Felix of the Department of Law.

[8:39:11 AM](#)

REPRESENTATIVE PETERSEN directed attention to language pertaining to write-in votes for governor and lieutenant governor. He said his understanding of that language is that a voter could "write in the name of the governor candidate and not ... write in the lieutenant governor's name, and the vote would still count."

MR. HOPKINS said that is also his understanding. He explained that following the primary election, the candidates for lieutenant governor and governor run on the same ticket.

[8:40:24 AM](#)

MR. HOPKINS, in response to Representative Gruenberg, offered his understanding that the same rule would not apply in a situation in which the voter was not able to spell the gubernatorial candidate's name but did write in the lieutenant governor candidate's name.

[8:41:41 AM](#)

REPRESENTATIVE GRUENBERG opined that the same rule should apply to both situations; if the lieutenant governor running with the governor can be counted with only the governor's name written in, then the candidate for governor should be counted when only the name of the lieutenant governor with whom he/she is running

is written in. He asked if the bill sponsor would consider an amendment to that effect.

[8:43:40 AM](#)

SENATOR THOMAS reminded Representative Gruenberg that this is existing law, but said he would have no objection to such an amendment.

[8:44:15 AM](#)

MR. HOPKINS said SB 31 could prevent the type of outcry heard as a result of the 2010 election from recurring and save the state hundreds of thousands of dollars by reducing the potential of future litigation.

[8:45:15 AM](#)

MR. HOPKINS stated that Section 1 of the proposed legislation amends AS 15.15.360 to address the counting of write-in votes and the determination of voter intent by the division director. He noted that paragraphs (1)-(4) in AS 15.15.360(d) were previously paragraphs (9)-(12) in AS 15.15.360(a); paragraph (5) is added to AS 15.15.360(d) under SB 31. He related that paragraphs (1)-(8) in AS 15.15.360(a) address the counting and marking of standard ballots - not write-in ballots.

[8:49:01 AM](#)

MR. HOPKINS explained that Section 2 introduces into statute language that is currently in Regulation 6 AAC 25.085, regarding standards for counting ballots and the date and time for the counting to occur. Subsections (1) and (2) address the counting of write-in ballots.

[8:50:44 AM](#)

REPRESENTATIVE PETERSEN directed attention to page 2, line 18, which refers to the "percentage necessary for a recount at the state's cost under AS 15.20.450. He asked Mr. Hopkins to clarify what that percentage is.

MR. HOPKINS said it is one half of one percent. In response to a follow-up question, he confirmed that the percentage requirement relates to the time after which all the absentee ballots and early ballots have been counted. In response to

Representative Wilson, he confirmed that all the language in Section 2 is new to statute.

[8:52:13 AM](#)

REPRESENTATIVE KELLER suggested including the language of 42 U.S.C. 1973ff [in subsection (c) of Section 2] for the purpose of clarity, rather than just listing the code. He asked for details regarding the code.

MR. HOPKINS deferred to the Department of Law.

[8:53:09 AM](#)

CHAIR LYNN questioned whether there is any language that could be added to SB 31 to define intent.

MR. HOPKINS indicated that the best answer would be to keep the recounting of write-in ballots a public process.

[8:54:24 AM](#)

MR. HOPKINS stated that the process described in Section 2 was used successfully during the aforementioned 2010 election.

[8:55:04 AM](#)

REPRESENTATIVE GRUENBERG returned to the issue of 42 U.S.C. 1973ff, referenced in Section 2, subsection (d), and he suggested that the subsection should read as follows: "This section does not apply to the counting of federal write-in absentee ballots submitted under federal law." He explained that U.S. Congress could amend the code and then Alaska Statute would have to be changed.

MR. HOPKINS indicated that the bill sponsor would be willing to consider that change of language after first hearing feedback from the Department of Law.

[8:57:05 AM](#)

REPRESENTATIVE KELLER opined that it is "appropriate for a sovereign state to put guidelines on votes that are also covered by federal law."

[8:57:41 AM](#)

MR. HOPKINS noted that the lieutenant governor had made one other recommendation to eliminate the requirement for a write-in candidate to file as an official write-in candidate; however, the bill sponsor decided not to include that recommendation in the bill in order to simplify the bill by sticking with the recommendations of the courts. He offered further details.

[9:00:17 AM](#)

REPRESENTATIVE PETERSEN asked if the bill sponsor decided not to put language in the bill that would make it illegal to solicit candidates over the airwaves.

MR. HOPKINS asked Representative Petersen to clarify if he is referring to something that happened on the radio.

REPRESENTATIVE PETERSEN [nodded].

[9:01:29 AM](#)

SENATOR THOMAS said he did not consider that situation. He stated that it seems ridiculous for people to have the ability to run for office when they would not even be able to serve if elected.

CHAIR LYNN mentioned freedom of speech and the encouragement candidates may receive to run.

[9:02:35 AM](#)

REPRESENTATIVE SEATON said it could be problematic if there is no declaration of candidacy and there are two people in the state with the name of the write-in candidate. He said he would like to keep the bill the way it is.

[9:03:53 AM](#)

MR. HOPKINS, in response to Representative Keller, confirmed that the lieutenant governor did not cite specific language for statute. In response to a question from Representative Wilson, he restated the purpose of Section 3.

[9:05:26 AM](#)

REPRESENTATIVE SEATON offered his understand that there is no language in the bill that contradicts the Supreme Court's ruling or its interpretation of Alaska's current election law.

SENATOR THOMAS confirmed that is correct.

REPRESENTATIVE SEATON related a conversation between [the committee] and the chief justice a couple years ago regarding legislative intent. He said, "It is a presumption that we do not enact statute willy-nilly or just to duplicate what already is current law." He said he wants it made clear for the record that by supporting SB 31, the committee would be verifying the current interpretations of law, but would not be instituting any change to the current interpretation of law. In response to Representative Keller, he emphasized that SB 31 would not change "the existing way we do it."

[9:07:31 AM](#)

CHAIR LYNN remarked that what is currently in regulation would, under SB 31, be put in statute; therefore, that is a change.

REPRESENTATIVE PETERSEN said that is the point he was going to make.

[9:09:37 AM](#)

CHAIR LYNN, after stating his support for SB 31, passed the gavel to Vice Chair Keller.

[9:10:38 AM](#)

SARAH FELIX, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Juneau), Department of Law (DOL), provided an overview of SB 31. Regarding the counting of write-in votes, she stated that SB 31 would codify the decision of the Alaska Supreme Court in the Miller v. Treadwell case. The proposed legislation takes the language of the court decision, which is taken from federal law. She said the key language in SB 31 is found on page 2, lines 6-8, which read as follows:

(5) in counting votes for a write-in candidate, the director shall disregard any abbreviation, misspelling, or other minor variation in the form of the name of a candidate if the intention of the voter can be ascertained.

MS. FELIX announced that she would respond to previous questions. She said AccuVote is used to count ballot votes, but cannot [determine names on] write-in votes. Once the threshold

for write-in votes is met - [as shown on page 2, lines 13-19] - those write-in votes are hand counted. The authority for that procedure, which was used in the 2010 General Election, was set out in AS 15.15.360, combined with write-in statute AS 15.15.105 and regulation 6 A.A.C. 25-085. She said DOL worked closely with the division to establish the process, which was validated by the Alaska Supreme Court and the Federal District Court.

[9:15:32 AM](#)

VICE CHAIR KELLER asked where in statute the requirement for having a public process for write-in vote counting is. Following comments from Ms. Felix, he clarified that he would like the citation.

MS. FELIX indicated that she could provide the citation later.

[9:17:52 AM](#)

MS. FELIX, in response to a question from Representative Petersen, confirmed that the AccuVote machine can only count those votes where the voter has filled in the oval, which means that if a voter wrote in a name of a candidate on the write-in line but did not fill in the oval next to that line, then that vote would not be counted.

[9:18:41 AM](#)

REPRESENTATIVE GRUENBERG cited a reference regarding public process in AS 15.15.350, [within subsection (a), paragraph (4)], which read as follows:

The election board, in hand-count precincts, shall count the ballots in a manner that allows watchers to see the ballots when opened and read.

REPRESENTATIVE GRUENBERG said he does not see anything in state law that would allow the public to observe the counting of write-in votes, which, he ventured, is what [Vice Chair Keller] had in mind.

[VICE CHAIR KELLER] responded yes.

[9:20:29 AM](#)

MS. FELIX pointed out that under AS 15.20.470 there is a requirement for public notice of recounts.

REPRESENTATIVE GRUENBERG offered his understanding that the next committee of referral was the House Judiciary Standing Committee, and he suggested that the matter could be pursued there.

VICE CHAIR KELLER concurred.

[9:22:53 AM](#)

MS. FELIX next addressed the previously discussed issue of the listing of 42 U.S.C. 1973ff [on page 2, line 25]. She explained that 42 U.S.C. 1973ff is the overall section of UOCAVA, and including it makes it clear that the federal write-in ballots would be counted.

[9:24:37 AM](#)

REPRESENTATIVE GRUENBERG asked Ms. Felix if there is any other section of federal law that should be included in SB 31.

MS. FELIX said she is not aware of any. She noted that the language regarding "abbreviation, misspelling, or other minor variation" is language from federal law that has been used in paragraph (5), on page 2, lines 6-8.

REPRESENTATIVE GRUENBERG emphasized the importance of citing federal law for the record.

MS. FELIX said the language in paragraph (5) is from 42 USCS Sec 1973ff-2(c)(3).

[9:27:35 AM](#)

REPRESENTATIVE GRUENBERG suggested that since Ms. Fenumiai has authority under existing law to promulgate regulations, she may want to look to do so in conjunction with existing federal law.

[9:28:10 AM](#)

REPRESENTATIVE SEATON directed attention to language on page 2, line 23, regarding the establishment of the place and date for counting write-in votes, and he asked if there would ever be a situation in which the director of the Division of Elections would choose to hold the count in Nome instead of in Juneau.

[9:28:45 AM](#)

GAIL FENUMIAI, Director, Division of Elections, Office of the Lieutenant Governor, answered that she cannot imagine that happening, because the ballots are sent to Juneau in a secure fashion, following the counting at the precincts and the counting of the ballots at the regional offices for "absentee in question." She explained that it would not be a good security measure to ship ballots back and forth throughout the state for recounts or write-in vote counts. She related that the ballots come to Juneau for the State Review Board to use during its audit of the election and are kept in one secured, locked facility.

REPRESENTATIVE SEATON questioned whether it would not be better to establish in statute where the ballots will be counted, leaving the date to the discretion of the director.

MS. FENUMIAI responded that if the committee wants to name, in statute, a specific location, it should be the place where the ballots are shipped, which is in Juneau. In response to a follow-up question, she said such a change should specify that the location in Juneau is the director's office, which is where the State Review Board convenes. She said she would not use the term, "regional office," because that means one of the division's five sites throughout the state.

REPRESENTATIVE SEATON asked for clarification that Ms. Fenumiai is saying that the place should be the director's office so that if that office changes location, it would still be clear where the ballots would be sent. He explained that he wants to avoid a debate about discretion.

MS. FENUMIAI said she agrees but is currently at a loss for wording. She suggested the language could read, "at the location to where the ballots are shipped following the election."

REPRESENTATIVE SEATON said he would like to know if the bill sponsor finds that suggestions acceptable.

[9:33:35 AM](#)

VICE CHAIR KELLER said he wonders if the place that is specified should be "where most of the people are."

REPRESENTATIVE SEATON said he wants to preserve the security of the system; therefore, he suggested the language could be

changed to specify the place where the ballots are shipped following the election.

[9:34:54 AM](#)

MS. FENUMIAI cited regulation 6 AAC 25-200, pertaining to recounts, which states that all recounts will be conducted at the director's office or at another site in Juneau.

[9:35:21 AM](#)

MS. FENUMIAI, in response to a question from Representative Petersen, explained that on election night, in the optical scan precincts where the ballot tabulators are, if the oval is filled in next to the line for a write-in candidate, it triggers a vote to go to the overall write-in category. In the hand-count precincts, those votes are also counted as a write-in vote - there is no individual identification as to whom those votes belong. The determination as to whether the threshold set out in statute is met is done post election.

[9:36:17 AM](#)

MS. FENUMIAI, regarding Representative Gruenberg's previously stated concern regarding the disparity in counting write-in votes for governor and lieutenant governor based on which name has not been entered correctly, said she could foresee a problem with amending that language. She explained that the intent may not be so clear. For example, she said a person may write in the name of someone running for lieutenant governor, but really want that person as governor.

REPRESENTATIVE GRUENBERG said a person has to register to run for a particular office; therefore, he/she could not be counted as a write-in for another office.

MS. FENUMIAI said this is uncharted territory that needs time to be considered.

[9:38:38 AM](#)

MS. FENUMIAI noted that the lieutenant governor provided an amendment that would amend AS 15.25.105(c) so that a letter of intent could be filed up to the day of the General Election. Currently statute allows a letter of intent to be filed up to five days before the election.

VICE CHAIR KELLER suggested the amendment could be considered by the House Judiciary Standing Committee.

[9:40:44 AM](#)

REPRESENTATIVE SEATON restated his concern regarding the conflict that could arise if one person filed as a write-in candidate and there was someone else in the state with the same name.

MS. FENUMIAI responded that if it became a voluntary issue to run as a write-in candidate, there could potentially be some difficulties related to determining voter intent if there were two people with the same name. However, she clarified that the lieutenant governor's proposal would be to change the filing deadline from five days prior to the general election up through the day of the General Election.

VICE CHAIR KELLER offered his understanding that two topics were brought up: one was regarding a letter of intent conceptual amendment and the other was "using just one last name." He said both issues would be discussed by the House Judiciary Standing Committee.

[9:43:03 AM](#)

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

[9:43:52 AM](#)

REPRESENTATIVE SEATON moved to adopted Conceptual Amendment 1, as follows:

Page 2, line 23:
Delete "place and"

Page 2, line 24, following "votes":
Insert "which shall occur at the place where the ballots are physically shipped following the elections"

[9:44:24 AM](#)

REPRESENTATIVE KELLER objected for the purpose of discussion.

[9:44:43 AM](#)

SENATOR THOMAS said he does not oppose Conceptual Amendment 1. He suggested using the phrase, "an appropriate public place", would also work. He indicated that in the past [the counting of write-in ballots] has been a public event; however, he said specifying that in statute is not a problem.

[9:45:32 AM](#)

REPRESENTATIVE GRUENBERG moved to amend Conceptual Amendment 1, to insert "public" between the words "at the" and "place".

REPRESENTATIVE SEATON said he would accept that as a friendly amendment.

[9:46:42 AM](#)

VICE CHAIR KELLER removed his objection to Conceptual Amendment 1, as amended. He asked if there was any further objection. [No further objection was stated, and Conceptual Amendment 1, as amended, was treated as adopted.]

[9:46:59 AM](#)

REPRESENTATIVE WILSON moved to report CSSB 31(JUD), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 31(STA) was reported out of the House State Affairs Standing Committee.

SB 93-SPECIALTY LICENSE PLATES

[9:47:27 AM](#)

VICE CHAIR KELLER announced that the last order of business was SENATE BILL NO. 93, "An Act relating to special request specialty organization registration plates; and providing for an effective date."

[9:47:46 AM](#)

KARLA HART, Staff, Senator Bill Wielechowski, Alaska State Legislature, presented SB 93 on behalf of the Senate State Affairs Standing Committee, sponsor, on which Senator Wielechowski is chair. She said specialty license plates are sweeping the country, with technological changes allowing efficient, economical printing of designs on demand, and the

proposed legislation not only would address people's interest in these license plates, but also the amount of time the legislature spends considering [requests for new specialized plate designs]. She noted that currently about half of the states allow administrative approval of specialty license plates.

MS. HART related that which SB 93 would accomplish, as shown in the lower portion of the one-page sponsor's statement [included in the committee packet], which read as follows [original punctuation provided]:

 Gives the Division of Motor Vehicles authority to develop a procedure for administrative review and award of specialty license plates.

 Requires DMV to develop a standard template so all specialty plates will be easily readable and recognizable for law enforcement.

 Creates standard regulations, fees and procedures that will apply to all specialty license plates.

 Will result in cost savings for the state as administrative responsibilities of confirming eligibility, collecting and accounting for funds for the non-profit, and developing the license plate artwork and design are transferred to the sponsoring organization. DMV processing of plate applications is streamlined as the applications will be submitted in batches by sponsoring organizations.

 Is revenue neutral. The \$30/vehicle specialty registration fee covers the cost of producing and issuing the specialty plates.

MS. HART said after researching other states' programs, Pennsylvania's program was selected as the model for SB 93. She said DMV supports the proposed legislation, and has told the bill sponsor that it would have no problem getting regulations in place by the effective date. She emphasized that SB 93 neither would preclude the legislature from passing future license plate bills nor impact any license plate bills that have already passed.

[9:52:31 AM](#)

REPRESENTATIVE SEATON directed attention to language on page 2, line 6, of SB 93, which would require regulation providing that the entity requesting the issuance of the plates "submit registration fees for at least 50 motor vehicles before specialty registration plates will be issued". He asked if that number could be changed to 10 and remain just as effective.

MS. HART answered yes. She said the numbers vary widely across the country and partly are a function of state population. She said Pennsylvania's model started out at 300, dropped that number to 50-100, and currently require a minimum of only one, because the program is working so well and pays for itself.

[9:53:33 AM](#)

VICE CHAIR KELLER questioned whether specialty plates would be used for campaign purposes, and he asked if that is a concern in other states.

MS. HART responded that some states have set in regulation and others through statute that the theme of the plates should be nonpolitical. She said she does not know if that is specifically defined in SB 93 or whether candidates generally run via their own nonprofit organizations.

VICE CHAIR KELLER said he sees that as a potential problem.

[9:55:00 AM](#)

REPRESENTATIVE SEATON suggested that people likely would not opt for a campaign specialty license plate, since they would then be stuck with that plate for a long time.

VICE CHAIR disagreed.

[9:55:31 AM](#)

REPRESENTATIVE GRUENBERG directed attention to language on page 2, line 8, which read: "may not be offensive in purpose, nature, activity, or name". He expressed concern that disallowing that which is "offensive" may infringe on First Amendment rights.

MS. HART, in response to Representative Gruenberg, said SB 93 had not been referred to the House Judiciary Standing Committee.

REPRESENTATIVE GRUENBERG related that a case having to do with First Amendment rights and New Hampshire's license plate made it to the U.S. Supreme Court.

[9:57:09 AM](#)

REPRESENTATIVE PETERSEN questioned whether the language on page 2, line 8, is already a requirement for specialized plates.

[9:57:30 AM](#)

STACY OATES, Administrative Officer, Division of Motor Vehicles, Department of Administration, indicated that the information regarding profanity is, in part, in regulations. She said the division is well aware of the court's decisions regarding free speech and license plates. She said if someone objects to a decision by the division not to okay a license plate design, then a hearing procedure is followed. She said the division has been dealing with this issue since the existence of personalized plates, and she said she does not foresee any different process would result under [SB 93].

[9:58:53 AM](#)

REPRESENTATIVE GRUENBERG said he would like a copy of the regulations and the statute upon which those regulations are promulgated.

MS. OATES said she would procure that for the committee.

MS. HART noted that there is one 9th Circuit Court of Appeals ruling regarding licenses plates, which supports freedom of speech, and she said she would get a copy of that to the committee.

[SB 93 was held over.]

[10:00:12 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 10:00 a.m.