

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 21, 2017

3:05 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Gabrielle LeDoux, Vice Chair
Representative Chris Tuck
Representative Adam Wool
Representative Chris Birch
Representative DeLena Johnson
Representative Gary Knopp

MEMBERS ABSENT

Representative Andy Josephson (alternate)
Representative Chuck Kopp (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 91

"An Act relating to fees for certain persons filing disclosure statements or other reports with the Alaska Public Offices Commission; relating to a tax on legislative lobbyists; and providing for an effective date."

- HEARD & HELD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44

"An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date."

- HEARD & HELD

HOUSE CONCURRENT RESOLUTION NO. 1

Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to voting and abstention from voting.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 91

SHORT TITLE: APOC REGISTRATION FEES; LOBBYIST TAX

SPONSOR(S): REPRESENTATIVE(S) KITO

01/30/17 (H) READ THE FIRST TIME - REFERRALS
01/30/17 (H) STA, FIN
02/09/17 (H) STA AT 3:00 PM GRUENBERG 120
02/09/17 (H) Heard & Held
02/09/17 (H) MINUTE(STA)
02/14/17 (H) STA AT 3:00 PM GRUENBERG 120
02/14/17 (H) Heard & Held
02/14/17 (H) MINUTE(STA)
02/21/17 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 44

SHORT TITLE: LEGISLATIVE ETHICS: VOTING & CONFLICTS

SPONSOR(S): REPRESENTATIVE(S) GRENN

01/18/17 (H) PREFILE RELEASED 1/13/17
01/18/17 (H) READ THE FIRST TIME - REFERRALS
01/18/17 (H) JUD, FIN
01/23/17 (H) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
01/23/17 (H) READ THE FIRST TIME - REFERRALS
01/23/17 (H) JUD, FIN
01/25/17 (H) STA REPLACES FIN REFERRAL
01/25/17 (H) BILL REPRINTED 1/25/17
01/25/17 (H) JUD WAIVED PUBLIC HEARING NOTICE, RULE
23 FOR SSHB 44
01/25/17 (H) JUD AT 1:00 PM GRUENBERG 120
01/25/17 (H) -- Meeting Postponed to 1/27/17 --
01/27/17 (H) JUD AT 1:00 PM GRUENBERG 120
01/27/17 (H) -- Meeting Rescheduled from 1/25/17 --
01/30/17 (H) JUD AT 1:30 PM GRUENBERG 120
01/30/17 (H) Heard & Held
01/30/17 (H) MINUTE(JUD)
02/03/17 (H) JUD AT 1:30 PM GRUENBERG 120
02/03/17 (H) Moved CSSSHB 44(JUD) Out of Committee
02/03/17 (H) MINUTE(JUD)
02/08/17 (H) JUD RPT CS(JUD) 1DP 3DNP 3AM
02/08/17 (H) DP: LEDOUX
02/08/17 (H) DNP: KOPP, EASTMAN, REINBOLD
02/08/17 (H) AM: KREISS-TOMKINS, FANSLER, CLAMAN
02/18/17 (H) STA AT 11:00 AM GRUENBERG 120
02/18/17 (H) Heard & Held
02/18/17 (H) MINUTE(STA)
02/21/17 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HCR 1

SHORT TITLE: AMEND UNIFORM RULES: ABSTAIN FROM VOTING

SPONSOR(S): REPRESENTATIVE(S) GRENN

01/20/17 (H) READ THE FIRST TIME - REFERRALS
01/20/17 (H) STA, JUD
01/20/17 (H) JUD REFERRAL REMOVED
01/20/17 (H) JUD REFERRAL ADDED BEFORE STA
01/25/17 (H) JUD AT 1:00 PM GRUENBERG 120
01/25/17 (H) -- Meeting Postponed to 1/27/17 --
01/27/17 (H) JUD AT 1:00 PM GRUENBERG 120
01/27/17 (H) -- Meeting Rescheduled from 1/25/17 --
01/30/17 (H) JUD AT 1:30 PM GRUENBERG 120
01/30/17 (H) Heard & Held
01/30/17 (H) MINUTE(JUD)
02/03/17 (H) JUD AT 1:30 PM GRUENBERG 120
02/03/17 (H) Moved HCR 1 Out of Committee
02/03/17 (H) MINUTE(JUD)
02/08/17 (H) JUD AT 1:30 PM GRUENBERG 120
02/08/17 (H) Moved HCR 1 Out of Committee
02/08/17 (H) MINUTE(JUD)
02/10/17 (H) JUD RPT 1DP 3DNP 2AM
02/10/17 (H) DP: CLAMAN
02/10/17 (H) DNP: EASTMAN, KOPP, REINBOLD
02/10/17 (H) AM: KREISS-TOMKINS, FANSLER
02/21/17 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE SAM KITO
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 91, as prime sponsor.

CRYSTAL KOENEMAN, Staff
Representative Sam Kito
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 91 on behalf of Representative Kito, prime sponsor.

HEATHER HEBDON, Executive Director
Alaska Public Offices Commission (APOC)
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 91.

RYAN JOHNSTON, Staff
Representative Jason Grenn
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of HCR 1 and explained CSSSHB 44(JUD) and HCR 1 with the use of a PowerPoint presentation, on behalf of Representative Grenn, prime sponsor of CSSSHB 44(JUD) and HCR 1.

REPRESENTATIVE JASON GRENN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on CSSSHB 44(JUD) and HCR 1, as prime sponsor.

JERRY ANDERSON, Administrator
Select Committee on Legislative Ethics
Legislative Agencies and Offices
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HCR 1 and CSSSHB 44(JUD).

ACTION NARRATIVE

[3:05:52 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:05 p.m. Representatives LeDoux, Tuck, Wool, Birch, Johnson, Knopp, and Kreiss-Tomkins were present at the call to order.

HB 91-APOC REGISTRATION FEES; LOBBYIST TAX

[3:07:00 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 91, "An Act relating to fees for certain persons filing disclosure statements or other reports with the Alaska Public Offices Commission; relating to a tax on legislative lobbyists; and providing for an effective date."

[3:08:01 PM](#)

REPRESENTATIVE SAM KITO, Alaska State Legislature, as prime sponsor of HB 91, stated that staff is exploring alternate methods for collecting program receipts for the Alaska Public Offices Commission (APOC). He suggested that replacing the "income tax" in HB 91 with a "fee" would provide a more direct path to generating program receipts. He emphasized that the goal is to generate money for APOC to support its operations, to satisfy the program receipt authority, and to provide savings for the State of Alaska.

[3:09:33 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Sam Kito, Alaska State Legislature, on behalf of Representative Kito, prime sponsor of HG 91, relayed that staff is considering a "stair-step" approach for generating revenue for APOC: the lower the contract amount, the fewer the filings with APOC and the less work; as the contract amount increases, more work is associated with APOC filings. She stated that the new proposal under HB 91 would consist of: a \$350 fee for contracts under \$30,000; a \$650 fee for contracts between \$30,000 and [\$60,000]; and an \$850 fee for contracts [\$60,000] and over. She asserted that the resulting revenue under this proposal is estimated to be \$259,150, based on 2015 and 2016 data provided by APOC. She went on to say that after adding in the estimated \$106,600 in revenue generated through the proposed registration fees for candidate, groups, and non-group entities and the proposed financial disclosure fees for legislators and public officials, the total estimated revenue is \$365,750. She maintained that this amount is much closer to the estimated amount [of \$329,750] in the sponsor statement. She asserted that collection of these fees into the designated general fund (DGF) would reduce the 2018 operating budget request by approximately \$120,000.

[3:11:54 PM](#)

REPRESENTATIVE LEDOUX asked why a smaller contract would be necessarily less complicated than a larger contract, and what would be required of APOC pertaining to a contract of less than \$30,000 compared with a contract of greater than \$60,000.

REPRESENTATIVE KITO responded that one difference is the work that the lobbyist is providing the client. He conceded that sometimes contracts overstate or understate the amount of work. He explained, however, that under a \$10,000 contract, the likelihood of extensive billings for lobbyist activities needing

reconciliation by APOC, such as taking clients out to dinner, is less than for a \$60,000 contract.

REPRESENTATIVE LEDOUX stated that what she has observed is that the client, not the lobbyist, is paying for the dinners. She added that some lobbyists entertain clients in their homes. She pointed out that in neither of these cases do the expenses show up in APOC reports. Representative LeDoux asked what APOC would be looking for with a higher priced client.

3:16:23 PM

HEATHER HEBDON, Executive Director, Alaska Public Offices Commission (APOC), responded that her understanding is that the stair-step approach for fees, which is being considered for HB 91, is based on the volume of reports that come into APOC, and that volume relates to the amount of a contract. She stated that the assumption is that larger contracts require more reporting. She explained that fees are not based necessarily on a single registration fee for a single lobbyist, since a single lobbyist may have a dozen different clients. She offered that the lobbyists making more money would have more clients and, therefore, would require more reporting.

REPRESENTATIVE LEDOUX asked if a lobbyist with one client paying \$61,000 is likely to have less reports than a lobbyist with one client paying \$10,000.

MS. HEBDON replied no, that is not her understanding. She said that the amounts referenced by the three contract ranges, are not based on the individual lobbyist, but rather on the amount that the lobbyist is making from lobbying activities. She conceded that a single lobbyist could have one client paying \$60,000, but the expectation is that the single lobbyist makes \$60,000 with ten clients, and there are separate reports for each of the ten clients.

REPRESENTATIVE LEDOUX suggested that Representative Kito's intention is that under HB 91 every lobbyist would pay a registration fee, and if the contract amount for any given client is more than \$60,000, the registration fee would be \$850. She added that if the contract were \$10,000 or less, the registration fee would be \$350. She expressed her belief that the fee was not intended to be based on "the entire book of clients" for a lobbyist.

3:20:22 PM

REPRESENTATIVE KITO responded that the fees for lobbyists are currently assessed at \$250 per client. He explained that if a lobbyist has multiple clients, then he/she pays that fee on each client. He added that if a client contracts with multiple lobbyists, each lobbyist is paying a fee on that client. He stated that the goal for restructuring APOC fees is to generate enough revenue for APOC to be able to fulfill its duties.

REPRESENTATIVE LEDOUX conceded that a client paying \$60,000 for lobbying services can more afford the \$850 fee than a client paying \$10,000 for lobbying services. She stated that she is not sure that the \$60,000 client necessarily engenders more for any lobbyist than does the \$10,000 client.

CHAIR KREISS-TOMKINS suggested that assigning fees in this way is comparable to the Alaska Court System assessing court fees based on the size of a tort claim, even though a smaller claim may require more in court services than a larger claim. He offered that the size of a claim or contract is used as a blunt metric for assessing a fee.

[3:22:37 PM](#)

REPRESENTATIVE BIRCH referred to the sponsor statement, which estimates revenue of \$60,000 through the \$50 financial disclosure filing fees. He asked if besides the 60 legislators, there were 1,100 other people submitting annual financial disclosure forms.

MS. HEBDON said that AS 24.60.200 requires a significant number of people to file financial disclosure statements. She mentioned that the five-year average of public official financial disclosures (POFDs) received by APOC was approximately 1,300 per year. She said that number includes those in the executive branch and governor's office, members of boards and commissions, and legislators. She added that municipal filers in communities with populations greater than 15,000, who are subject to APOC's electronic reporting requirements, are also included in the five-year annual average. She expressed her desire for more clarification in Section 4, on page 3 of HB 91, to better define the group of filers from whom APOC would be collecting fees.

REPRESENTATIVE BIRCH asked how much effort is required for APOC to manage the financial disclosure filings.

MS. HEBDON replied that the majority of APOC's budget is for personnel. She said the online filing system alone requires a fulltime analyst programmer. She mentioned that direct services to the public consume most of APOC personnel's time - answering phone calls, answering emails, assisting filers with the online filing system, and auditing reports. She added that currently APOC is statutorily required to audit every report coming into the office, but it doesn't have the staff to do so.

[3:26:09 PM](#)

REPRESENTATIVE WOOL asked for confirmation that instead of the income tax specified in the original bill or the flat fee of \$250 currently in statute, the new version of HB 91 will include a fee on a sliding scale that is progressive - the higher the value of the contract, the higher the fee.

MS. KOENEMAN confirmed that the fee would be on a sliding scale based on [lobbyist] income [from] the client.

REPRESENTATIVE WOOL offered that the [new proposed] fee was per contract, whereas the previous 2.5 percent tax would have been on the lobbyist's gross amount derived from all the contracts.

REPRESENTATIVE KITO responded that the mechanism for applying the tax versus the fee would be the same. He stated that the 2.5 percent tax for each lobbyist would have applied to each lobbyist contract. He went on to say that this would be a change from a tax to a fee. He said that the fee is set at a sliding scale, not a percentage; for all of those below \$30,000 is one fee, between \$30,000 and \$60,000 is another fee, and above \$60,000 is another fee.

[3:27:44 PM](#)

REPRESENTATIVE KNOPP noted APOC's reduction in revenue, from \$1,300,000 in 2015 to \$866,000 in 2016, and reduction in fulltime staff, from 12 positions authorized in fiscal year 2017 (FY 17) to 8 positions shown in the current organization chart. He asked if APOC is currently operating with eight full-time employees.

MS. HEBDON responded that APOC currently has eight position control numbers (PCNs), and the analyst programmer position and one other position are currently vacant.

REPRESENTATIVE KNOPP asked if those two positions have been vacant for some time.

MS. HEBDON replied yes. She said that when the former executive director left, she became the executive director and has not yet recruited for her former position.

REPRESENTATIVE KITO confirmed in response to Representative Knopp that the legislature authorized receipt authority up to \$240,000, but by statute the only fee that could be collected was \$250 per client per lobbyist, which raised about \$106,000.

3:30:20 PM

REPRESENTATIVE KNOPP referred to the document, titled "Multi-year Allocation Totals with Funding - Operating Budget - FY 2017 Conf Committee Structure," included in the committee packet, and asked if the amounts shown in the budget were amounts authorized but not necessarily received by APOC for operations.

MS. KOENEMAN referred to the column, titled "FY 16 Actual," to point out that the legislature had appropriated \$758,500 in unrestricted general funds (UGF), but APOC was only able to utilize \$107,500, because that was the limit of its receipt authority. She then referred to the amounts listed under the column, titled "FY 16 Final," and pointed out that \$240,000 was appropriated by the legislature, but it turned out to be "hollow" authority because APOC did not have the statutory authority to collect fees up to that amount. She added that the legislature thought it was giving APOC additional funds; however, the revenue generated by APOC fees was substantially lower than the amount authorized.

REPRESENTATIVE KNOPP asked if the legislature was giving APOC authority to spend an amount that it was not able to collect.

MS. KOENEMAN replied, "Basically, yes."

REPRESENTATIVE KNOPP referred to the \$242,600 listed under the column, titled "FY 17 Auth," and asked if APOC would be able to collect this amount only if HB 91 passed.

MS. KOENEMAN confirmed that APOC would not be able to generate \$242,600 in funds, but only the approximately \$107,000, depending on the number of filers. She reiterated that the intent of HB 91 is to raise the statutory fee authority allowing APOC to collect more revenue.

[3:33:15 PM](#)

REPRESENTATIVE KNOPP commented that with the possibility of filing fees, he believes that people appointed to boards and commissions should be exempt from APOC filing. He relayed that there are about 360 people who fall into these categories, and they are not necessarily compensated. He asserted that the exemption would alleviate APOC of some of its workload.

CHAIR KREISS-TOMKINS offered that the Department of Administration Finance Subcommittee was considering reducing the number of public officials who are required to file POFDs.

[HB 91 was held over.]

[3:35:06 PM](#)

The committee took an at-ease from 3:35 p.m. to 3:38 p.m.

HB 44-LEGISLATIVE ETHICS: VOTING & CONFLICTS
HCR 1-AMEND UNIFORM RULES: ABSTAIN FROM VOTING

[3:37:31 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 44, "An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that could benefit or harm an immediate family member or certain employers; requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest; and providing for an effective date." and HOUSE CONCURRENT RESOLUTION NO. 1, Proposing an amendment to the Uniform Rules of the Alaska State Legislature relating to voting and abstention from voting. [Before the committee was CSSSHB 44(JUD) and HCR 1.]

[3:38:14 PM](#)

RYAN JOHNSTON, Staff, Representative Jason Grenn, Alaska State Legislature, on behalf of Representative Grenn, prime sponsor of CSSSHB 44(JUD) and HCR 1, provided a sectional analysis of HCR 1 and explained CSSSHB 44(JUD) and HCR 1 with the use of a PowerPoint presentation. He relayed that Section 1 of HCR 1 would amend Uniform Rule 34(b) to state that a legislator may abstain from a vote with a majority consent. He explained that

currently Uniform Rule 34(b) states that a legislator may abstain from a vote by unanimous consent. He stated that HCR 1 would amend Uniform Rule 34(b) to include two instances when a member of the legislature may not vote: a legislator may not vote on his/her own abstention, and a legislator may not vote on an issue if the body of the legislature casts a majority vote ruling that the legislator must abstain.

[3:39:30 PM](#)

REPRESENTATIVE WOOL asked for clarification of the phrase "a legislator may not vote on his/her own abstention."

MR. JOHNSTON replied that the phrase was included because staff thought it improper for a legislator to vote on his/her own abstention, after making a motion to abstain.

[3:42:00 PM](#)

MR. JOHNSTON referred to slide 2 of the PowerPoint presentation on CSSSHB 44(JUD) and HCR 1, titled "Current Uniform Rule 34(b)," which highlights that a legislator currently needs unanimous consent to abstain from voting. He referred to slide 3, titled "HCR 1 Proposed Changes to Uniform Rule 34(b)," which states that the change in the rule would be the change from a unanimous consent to a majority consent by the legislative body to allow a legislator to abstain from a vote.

MR. JOHNSTON referred to slide 4, titled "Source of Language for Majority Vote:" and relayed that the source of the language for a majority vote comes from AS 29.20.010(a), in which the state dictated that municipalities must have a conflict of interest ordinance. He cited AS 29.20.010(a)(3), which states that the ruling of the presiding officer can be overridden by a majority vote of the legislative body. He added that since a majority vote is used on the municipal level to overturn an abstention, staff considered it a preexisting benchmark for allowing an abstention in the legislature. He concluded that HCR 1 seeks to bring about consistency between what the state requires of a municipality and what is required of the legislature.

MR. JOHNSTON referred to slide 5, titled "Legislative Breakdown for Voting Recusal," to discuss the voting recusal rules for legislative bodies across the country. He explained that the breakdown is done by individual state houses, not the state itself. He added that every state has a House and Senate except for Nebraska, which has a unicameral legislature. He relayed

that in some states, the two legislative bodies share rules, while in other states, one rule is used for one body and another rule used for the other body. He related that 30 bodies use a method of voting that allows a legislator to abstain: 24 of those use a majority consent; 4 use a two-thirds consent; and Alaska is the lone state requiring unanimous consent. He stated that 58 bodies use a method whereby a legislator declares a conflict and is required to abstain without a vote; 5 bodies use the method of declaring a conflict and the legislator is required to vote or may choose to abstain; and 6 bodies use the method of allowing for a presiding officer to use his/her discretion. He added that in this last method, the presiding officer determines if the conflict is substantial or not. If the conflict is substantial, then the presiding officer grants the legislator the abstention. If the conflict is not substantial, then the legislator is required by the presiding officer to vote.

[3:43:33 PM](#)

REPRESENTATIVE JOHNSON referred to slide 4 and asked when AS 29.20.010 was enacted.

MR. JOHNSTON responded that the original statute was enacted June 30, 1986.

REPRESENTATIVE JOHNSON asked when the conflict of interest statutes for the legislature were enacted.

MR. JOHNSTON answered that he did not have an exact date but would provide her with that information.

[3:45:24 PM](#)

REPRESENTATIVE LEDOUX asked for confirmation that state laws require municipalities to abide by a conflict of interest statute, whereas the legislature does not require it of itself.

[3:46:07 PM](#)

REPRESENTATIVE JASON GRENN, Alaska State Legislature, as prime sponsor of CSSHB 44(JUD) and HCR 1, responded, "That is correct."

REPRESENTATIVE JOHNSON commented that there is an open meetings act on the municipal level, which the legislature does not have, and maybe the legislature will want to "take that one on next."

[3:46:49 PM](#)

MR. JOHNSTON continued with his presentation to discuss CSSSHB 44(JUD). He referred to slide 7, titled "Employer Conflicts of Interest in Current Statutes," and said that CSSSHB 44(JUD) focuses on changes to subsections (e) and (g) in AS 24.60.030. He stated that currently AS 24.60.030(e) addresses the potential conflict of interest for a legislator who takes official action that could substantially benefit or harm a person with whom the legislator is negotiating for employment.

MR. JOHNSTON referred to slide 8, titled "HB 44 Proposed Changes to AS 24.60.030(e)," and said that CSSSHB 44(JUD) would retain the language "negotiating for employment" but broaden the scope of AS 24.60.030(e)(3) to include a member of the legislator's immediate family, the employer of a legislator or his/her immediate family member, and a previous employer that a legislator worked for in the preceding 12-month period.

MR. JOHNSTON referred to slide 9, titled "Other States with Employer Conflict Language," and relayed that there are currently 29 states that have statutes dealing directly with possible conflicts of interest that could arise from a legislator being employed outside of the legislature.

[3:48:01 PM](#)

MR. JOHNSTON referred to slide 10, titled "Current Monetary Threshold in Statute Regarding Members of the Public," and said that the \$10,000 threshold is found in AS 24.60.990(b), which sets the standard for a substantial interest in a legislative action by a member of the public who seeks contracts more than \$10,000 annually for goods or services with the legislature or agency of the state. He maintained that incorporating this threshold into the statute would bring the legislature up to the same standard to which the state holds a person of the public, when determining a substantial interest, thus creating consistency between what is required of the legislature and what is required of the public. He mentioned that the State of Virginia also uses the \$10,000 threshold for income, which is in VS 30-101.

MR. JOHNSTON then referred to slide 11, titled "'Substantial Class' in Current Statutes," to point out the mention of "substantial class" found in AS 24.60.030(g), and slide 12, titled "'Substantial Class' in Current Statutes (cont.)," to

cite the mention of "substantial class" found in AS 24.60.990 (b). He maintained that the "substantial class" language in these two subsections of statute are consistent with previous and other states' statutes. He referred to slide 13, titled "Substantial Class in Other State's Statute," to recite the breakdown by states: 19 states have the substantial class language; 8 states use similar language but refer to it in terms of the effect on the interests of the general public of the state, instead of on the substantial class; and 2 states use both forms of statutory language in their conflict of interest determinations.

[3:50:14 PM](#)

MR. JOHNSTON confirmed in response to Representative Tuck that current statutory language is shown in blue on the slides and is the language that is being compared with other state statutory language.

REPRESENTATIVE WOOL referred to slide 11 and asked if the language in AS 24.60.030(g) could apply to a chicken farm owner voting on laws about importing chickens.

MR. JOHNSTON answered that if proposed legislation was introduced that gave a tax incentive only for 500-acre chicken farms, and the legislator had a 500-acre chicken farm, there would be a conflict of interest. He added that if legislation was introduced that gave tax incentives to every chicken farmer in Alaska, then there would be no substantial benefit or harm, because the industry is being affected as a whole.

REPRESENTATIVE WOOL mentioned the difficulty in delineating between a class and subclass of an industry and offered that such technical issues may not be easily discernable at the moment of a House floor vote. He added that taking the question to the Select Committee on Legislative Ethics may delay the decision months. He offered that if he was an employee of an industry, then he would not be affected because he is not an owner. He asked if an employee of an oil company voting on oil taxes would be considered differently from the owner of an oil company voting on oil taxes.

MR. JOHNSTON responded that under current statute, that would be the correct interpretation.

REPRESENTATIVE WOOL asked if an owner of an oil company voting on oil taxes affecting all oil companies would be allowed to vote.

MR. JOHNSON responded that is correct.

CHAIR KREISS-TOMKINS commented that many disclosures occurring on the House floor currently are not required by the "letter of the law," and the law defines conflicts much more narrowly.

[3:54:39 PM](#)

JERRY ANDERSON, Administrator, Select Committee on Legislative Ethics, Legislative Agencies and Offices, stated that Representative Wool's question has been the subject of a number of advisory opinions, and it is a complex question that cannot be answered without a specific set of facts.

[3:55:28 PM](#)

REPRESENTATIVE TUCK requested Mr. Anderson to provide the committee with the last three cases in which there was a conflict of interest on the floor. He maintained that "this is really a gray area," and it is always safer to declare a conflict than not to declare one. He offered that reviewing the facts of cases with the names blanked out would help the committee understand what constitutes conflicts of interest.

MR. ANDERSON confirmed that he could provide examples to the committee. He clarified that his agency has both complaint decisions and advisory opinions and could provide both.

REPRESENTATIVE TUCK expressed that he is more interested in reviewing the complaints, but the advisory opinions would also be good to review.

REPRESENTATIVE KNOPP offered a scenario: passage of the omnibus reform bill would result in a benefit to collective bargaining units. He asked if a legislator would have a conflict of interest voting on that particular proposed legislation if he/she were a member of a collective bargaining unit.

MR. ANDERSON replied that Representative Knopp is describing a very large class of people and, under the current statute, one individual of that class would not benefit substantially greater than the class as a whole.

REPRESENTATIVE WOOL offered a hypothetical situation: There is a vote on the floor, and a legislator declares a conflict of interest. Then there is a vote on the conflict of interest, which is disputed by the legislator with the potential conflict. The case goes to the Select Committee on Legislative Ethics. He asked if the question would be resolved in a timely manner or if it would involve a long investigation. He asked what the procedure would be at that point.

MR. ANDERSON said he is only able to provide information on the current statutes but could offer an opinion on the proposed legislation. He said under the current rules if a conflict of interest is declared and there is an objection, the legislator making the declaration is required to vote.

[3:59:30 PM](#)

REPRESENTATIVE LEDOUX speculated that even if the Uniform Rules were amended requiring a legislator to vote, there are probably very few cases in which that legislator would have to vote under the current version of the statute. She opined that the conflict of interest statute "has a hole big enough you could drive a tank through."

CHAIR KREISS-TOMKINS asked Mr. Anderson to describe a hypothetical situation that would constitute a conflict of interest under current law.

MR. ANDERSON answered that a case in which a legislator had a financial stake in the outcome of the vote could potentially constitute a conflict of interest. He gave as an example: regarding the collective bargaining vote mentioned earlier, the legislator's compensation was tied to the outcome of that vote and involved bonuses or other incentives that had a greater impact on the legislator than the large class of collective bargaining people.

REPRESENTATIVE LEDOUX responded that she did not understand Mr. Anderson's example because collective bargaining involves a large class of people. She said that under statute, a conflict would have to involve a legislator who was different from a large class of people.

MR. ANDERSON responded that in the scenario he described, the financial impact was greater for the legislator voting on the proposed legislation than for the collective class to which he/she belonged - the collective bargaining unit.

REPRESENTATIVE LEDOUX asked if that could happen, since the vote would affect everyone in the collective bargaining unit.

[4:02:35 PM](#)

CHAIR KREISS-TOMKINS asked for clarification that the legislator in the hypothetical scenario has a unique status in the collective bargaining unit, such as a negotiator, therefore would be subject to a bonus or incentive.

MR. ANDERSON said yes. The legislator may be part of the collective bargaining unit, but because of his/her status as a negotiator, he/she would have a greater financial benefit because of the legislation.

REPRESENTATIVE LEDOUX asked if a negotiator might get a bonus for negotiating a good contract. She opined that the scenario seems relatively far-fetched.

MR. ANDERSON replied, "That is the situation that I'm describing." He conceded that the scenario may be far-fetched but expressed that the legislator being different from the large class of people is what would be required for the benefit to him/her to be greater than the benefit to the large class of people.

CHAIR KREISS-TOMKINS referred to the hypothetical situation involving a legislator who is a chicken farmer with 500 acres. He asked for confirmation that proposed legislation about chicken farms would not constitute a conflict of interest for the legislator, but chicken farm legislation relating to chicken farms of 500 acres or greater would constitute a conflict of interest.

MR. ANDERSON replied that if the legislator was the only chicken farmer with 500 acres or more, he/she would obviously benefit more than the class of chicken farmers, if there are provisions in the legislation requiring the chicken farm to be 500 acres or more to get the benefits of the legislation.

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REPRESENTATIVE WOOL asked about a scenario in which there is a class of 1,000 chicken farmers and a subclass of 50 chicken farmers with 500 acres or more. He asked at what point a group constitutes a class and at what point is a group too small to be

a class, such as 5 chicken farmers. He suggested that some oil companies produce 30,000 barrels of oil per day and some produce 100,000 barrels per day.

MR. ANDERSON attested that the questions Representative Wool raised are the type of grappling questions that the Select Committee on Legislative Ethics struggles with when asked for an advisory opinion.

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REPRESENTATIVE KNOPP offered that in all the scenarios presented, Mr. Anderson's response falls back to the financial benefit. He asserted that there are many conflicts of interest that legislators would uphold on the floor that do not have a financial basis. He asked if all determinations regarding conflicts of interest would be made based on the financial implications of the legislation.

MR. ANDERSON answered that the current law addresses conflicts of interest in terms of substantial benefit or harm, and typically they are in financial terms. He conceded that there could be non-quantifiable benefits and harms that could still be basis for conflict of interest.

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REPRESENTATIVE LEDOUX presented a scenario as follows: a legislator has a family member who is a lobbyist and is voting on proposed legislation significant to that family member. She asked if that would constitute a conflict of interest.

MR. ANDERSON replied that more facts would be needed just as the Select Committee on Legislative Ethics would need more facts to make a determination. He said that the question would be, "What is the class of lobbyist ... being affected by that potential legislation, and is that harm any greater with that family member?"

REPRESENTATIVE LEDOUX opined that most people would agree that if there is such a thing as a conflict of interest, the scenario she just suggested would constitute a conflict of interest. She offered that if the proposed legislation does not definitely consider that hypothetical situation as a conflict of interest, then "it's got some big problems."

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REPRESENTATIVE TUCK suggested that the committee's discussion has been on "when to declare" and the proposed legislation addresses "after you declare." He said that currently a conflict of interest does not have to be declared in committee but must be declared on the floor at the time of a final vote. He maintained that the proposed legislation would require declaring a conflict of interest in committee, as well as on the floor, and it is on the floor that the body of legislators would decide whether the legislator declaring the conflict shall or shall not vote. He asserted that the "real" examples he requested may provide clarification. He mentioned that under the proposed legislation there are language changes for substantial benefit or harm; there would be exceptions regarding the operating budget; and "financial interest" is defined and replaces "equity ownership." He reiterated that most of the proposed legislation involves the process of what happens after declaration of a conflict of interest.

MR. JOHNSTON referred to slide 14, titled "HB 44 Proposed Changes to AS 24.60.030(g)," and stated that CSSSHB 44(JUD) would add to AS 24.60.030(g) the following statement: "a legislator shall declare a conflict of interest before voting on a question before a committee of the legislature." Moving on to slide 15, titled "HB 44 Proposed Changes to AS 24.60.030(g)," he said that CSSSHB 44(JUD) would add "an immediate family member" as a beneficiary of a potential conflict of interest, and immediate family is defined in AS 24.60.990(a)(6).

MR. JOHNSTON referred to slide 16, titled "Other States with Reference to Family," and said there are 28 states with statutory language covering the possible conflicts involving family members, such as the inclusion of a family member's employer to the list of recipients of a potential benefit or harm from the passage of legislation.

MR. JOHNSTON referred to slide 17, titled "HB 44 Proposed Changes to AS 24.60.030(g)," and relayed that CSSSHB 44(JUD) would add language ensuring that every legislator would be able to vote on the final operating budget as required by AS 37.07.020(a) and AS 37.07.100 of the Executive Budget Act [AS 37.07].

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REPRESENTATIVE BIRCH referred to the visibility and exposure already in place: every legislator completes a detailed

financial disclosure statement, which is available online to the public; proposed legislation is available online; and the legislative process is public. He opined that the legislation would result in a "huge tangle" of trying to determine what is substantial and whose judgement to follow, rather than "just putting all the information out on the table." He asked Mr. Anderson to identify for the committee a "real" conflict of interest that occurred in the past several years for which this legislation would have provided a constructive remedy.

REPRESENTATIVE GRENN offered that currently one person can object and force a member of the legislature to vote without the objection being on the public record. The details of the conflict of interest and of the request to abstain remain unknown. He maintained that the proposed legislation would allow the legislator to speak to his/her conflict of interest to the benefit of the rest of the body; the body would vote on the conflict of interest; and the vote would become public record. He asserted that if a member of the public was concerned about a legislator's conflict of interest, it would be in the public record that he/she spoke to the conflict and the legislative body rejected the conflict. He maintained that CSSSHB 44(JUD) would add transparency; would allow the legislature to be consistent with its own requirement for municipalities; and would conform to the practices of 49 other states.

REPRESENTATIVE BIRCH stated that given the amount of disclosure already required of legislators and the obligation of completing legislative work in a timely fashion, he does not see that the proposed legislation will speed up that process or improve public perception of legislative work.

REPRESENTATIVE GRENN referred to slides 18 and 19, titled "Citizen Legislatures," and pointed out that in the Wyoming legislature, whose legislators have low salaries and outside employment, there were only 10 instances where a declared conflict of interest needed a resolution in the past three years. He added that more bills are introduced in Wyoming's legislature than are introduced in Alaska's legislature. He reiterated that the goal of CSSSHB 44(JUD) is transparency, building trust, and adding legislators' interests to the public record, which would be good for governance.

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REPRESENTATIVE JOHNSON stated that she has had a great deal of experience with this issue in her involvement with municipal

government. She referred to slide 15 and asked if the definition for domestic partner is included in statute.

MR. JOHNSTON answered that the definition for domestic partner is currently in AS 24.60.990(a)(5).

REPRESENTATIVE JOHNSON asked how the \$10,000 per year limit was chosen and noted that it is very low - less than \$1,000 per month.

MR. JOHNSTON stated that the \$10,000 per year limit is high relative to other states. He cited other state limits as low as \$500 per year. He explained that the limit was derived from Alaska Statutes pertaining to the limit required of a member of the public in defining substantial interest. He added that the proposed legislation specifies that amount as an amount received in the preceding 12-month period. He maintained that with these parameters, staff tried to set a benchmark that would ensure identification of an employer with which a conflict could arise.

REPRESENTATIVE JOHNSON offered her concern that minority members' votes would be blocked, and she asked if Mr. Johnston had done research on that aspect.

MR. JOHNSON replied that in talking with representatives from other states using majority consent from the body to address declared conflicts of interest, he did not hear of any cases of that occurring. He offered that because this involves public record, "it's a double-edged sword for a majority" to use this politically. He noted that the Wyoming legislature uses majority consent of the Rules [& Procedures] Committee to require abstention, but he said that staff considered that to be more partisan than a floor vote. He reiterated that [the idea of] majority vote comes from Alaska's statutes, and most states that use a vote to abstain or not abstain uses majority vote.

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REPRESENTATIVE TUCK pointed out that CSSSHB 44(JUD) would prevent people from having to make a declaration of conflict of interest when voting on the operating budget, when declarations of conflict of interest are most common. He offered that this would streamline the process because there would be fewer declarations of a conflict of interest. He opined that it is a disservice to the public when before a legislator even finishes declaring a conflict, someone objects.

REPRESENTATIVE KNOPP stated that in municipal government when a conflict is declared, the chair decides on the conflict, and the body has the right to object to the decision and overrule the chair. He opined that is a method that works well in local government, and he would support that method applied to the legislature. He suggested that the declarations of conflicts are numerous; legislators don't necessarily function well on the floor; and he hates to make the process more cumbersome. He expressed that there is a tendency to "over-declare" to "cover our bases." He expressed that he supports the changes to the statutes but struggles with the concepts of "immediate family members" and "potential conflicts."

REPRESENTATIVE GRENN pointed the examples from other states described on slides 18 and 19 of the PowerPoint presentation. He concluded that the proposed legislation would offer another way to build trust with the public and avoid any perception that there are hidden conflicts.

[CSSSHB 44(JUD) and HCR 1 were held over.]

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ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:26 p.m.