

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

March 30, 2017

3:16 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

PRESENTATION: VOTE BY MAIL BY THE ANCHORAGE MUNICIPAL CLERK'S OFFICE

- HEARD

HOUSE BILL NO. 181

"An Act relating to per diem for legislators; relating to a travel allowance for legislators and legislative employees; and relating to the State Officers Compensation Commission."

- MOVED CSHB 181(STA) OUT OF COMMITTEE

HOUSE BILL NO. 163

"An Act authorizing the Department of Public Safety to enter into agreements with nonprofit regional corporations and federal, tribal, and local government agencies to provide law enforcement services; authorizing the Department of Public Safety to collect fees for certain law enforcement services; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 181

SHORT TITLE: LEGISLATURE PER DIEM AND TRAVEL ALLOWANCE
SPONSOR(s): REPRESENTATIVE(s) KREISS-TOMKINS

03/16/17	(H)	READ THE FIRST TIME - REFERRALS
03/16/17	(H)	STA, FIN
03/28/17	(H)	STA AT 5:30 PM GRUENBERG 120
03/28/17	(H)	Heard & Held
03/28/17	(H)	MINUTE(STA)
03/30/17	(H)	STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

AMANDA MOSER, Deputy Elections Clerk
Municipal Clerk's Office
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Presented on "Vote by Mail" with the use of a handout provided to the committee.

BARBARA JONES, Municipal Clerk
Municipal Clerk's Office
Municipality of Anchorage
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the "Vote-By-Mail" presentation.

BERETT WILBER, Staff
Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 181 on behalf of Representative Kreiss-Tomkins, prime sponsor.

JESSICA GEARY, Finance Manager
Legislative Administrative Services(LAS)
Legislative Affairs Agency(LAA)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 181.

KATE SHEEHAN, Director
Division of Personnel and Labor Relations (DPLR)
Department of Administration (DOA)
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 181.

ACTION NARRATIVE

[3:16:10 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:16 p.m. Representatives LeDoux, Tuck, Wool, Birch, Knopp, and Kreiss-Tomkins were present at the call to order. Representative Johnson arrived as the meeting was in progress.

PRESENTATION: Vote by Mail by the Anchorage Municipal Clerk's Office

[3:17:33 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be a presentation: Vote by Mail by the Anchorage Municipal Clerk's Office.

[3:17:52 PM](#)

AMANDA MOSER, Deputy Elections Clerk, Municipal Clerk's Office, Municipality of Anchorage, began the presentation entitled "Vote by Mail." She relayed three concerns regarding Anchorage elections brought to her attention by Ernie Hall in 2014; Mr. Hall was the chair of the Anchorage Assembly Ethics and Election Committee at the time. The first concern was low voter engagement: on average, 20-25 percent of Anchorage's registered voters participate in the election. Ms. Moser said that the "high watermark" in the last ten years occurred in 2012, with 35 percent voter turnout. The second concern was the inefficient use of community resources: Anchorage has 122 polling locations from Peter's Creek to Girdwood, all of which must be supplied with the materials and equipment needed for voter processing. She stated that the third concern is with the recruitment, training, and retention of election officials: approximately 700-750 workers are required to process voters at the 122 polling locations in Anchorage. Each year it becomes more challenging to find people to dedicate an entire day, from 6 a.m. to 10 p.m., processing voters, as well as taking the time to be trained and fulfilling all the requirements for being an election official.

MS. MOSER relayed that faced with these three concerns, the Clerk's Office explored alternative voting methods in Anchorage. She stated that after researching similar jurisdictions, staff quickly settled on methods used in Oregon, Washington, and

Colorado. She said that those three states are all "vote-by-mail" states. She mentioned that these areas were like Anchorage in that they consisted of geographical diversity encompassing a large area. She indicated that staff researched the impact of vote-by-mail on the jurisdictions that had instituted it. They discovered that these jurisdictions experienced on average significantly higher voter turnout and more efficient use of community resources through technology. Mr. Moser declared that fewer election officials are needed to process a vote-by-mail jurisdiction compared with a regular polling place jurisdiction.

MS. MOSER said that the Municipal Clerk's Office reported its findings to Mr. Hall and the Ethics and Election Committee. She stated that Mr. Hall and the committee directed the Municipal Clerk's Office to organize a stakeholders group to engage community members in a discussion on voter issues. She relayed that in the summer of 2015, the Municipal Clerk's Office established a stakeholders group of 12 community members representing Anchorage's diverse population and having an interest in the election process. She mentioned that the 12 members recommended others for the group; thus, the group expanded to 52 members. She related that the stakeholders group met three times through the summer and fall of 2015; it explored the vote-by-mail process and the impacts it would have on Anchorage. In December of 2015, the Anchorage Assembly passed a resolution unanimously supporting the continued exploration of a vote-by-mail transition in Anchorage.

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MS. MOSER continued by saying that by 2016, the Municipal Clerk's Office recognized that to implement this significant transition, it would need assistance. She mentioned that with the support of the Anchorage Assembly, the Municipal Clerk's Office hired Dennis Wheeler of Resource Data, Inc. (RDI) as a project manager. She added that Mr. Wheeler had been the municipal attorney until 2015; he had worked closely with the Municipal Clerk's Office on election issues and on the 2013 rewrite of the Anchorage Municipal Code as it relates to elections. The Municipal Clerk's Office has been working with Mr. Wheeler and RDI on the transition since February 2015. She relayed that the Anchorage Assembly formed an executive steering committee consisting of Mr. Hall, the current chair of the Ethics and Elections Committee, Elvi Gray-Jackson, and Vice-Chair Dick Traini. She added that the Municipal Clerk's Office

is working closely with the Executive Steering Committee and RDI.

MS. MOSER explained that three discreet pieces of equipment and materials were identified as needed for the transition to vote-by-mail. She said that MOA is soliciting bids through requests for proposals (RFPs) for the following: the envelope scanning and signature verification component; the high-speed tabulation equipment; and the mailing of ballot packages to all registered voters. She added that all qualified registered voters in the Anchorage jurisdiction will receive ballot packages three weeks before election day. A voter will have the opportunity to study the issues on the ballot with trusted resources and educational material to make confident choices. A voter will return the ballot inside a secrecy sleeve inside a ballot return envelope with his/her signature on the outside of the ballot return envelope. She relayed that the voter has three options for returning the ballot: through the U.S. mail with a first-class stamp; at one of 12 secure drop boxes placed by the Municipal Clerk's Office; and at any one of the accessible vote centers. She added that in addition to a ballot mail-out to all qualified voters, there will be assessible voting centers for voters needing additional assistance, a new ballot, or the opportunity to vote at a polling location. There will be three or four of these voting locations, which will be available for voters beginning about one week before Election Day.

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REPRESENTATIVE BIRCH mentioned ballots that are thrown out and retrieved by other people who may be using those discarded ballots to vote. He asked what control is used to maintain the sanctity of the one person, one vote rule.

MS. MOSER answered that through the RFP process, MOA purchased a component allowing for secure signature verification. She mentioned that MOA purchased equipment from Bell and Howell Company; each qualified registered voter receiving a ballot in the mail will be asked to sign the outside of the envelop before returning the ballot; and the returned envelopes will be scanned using the Bell and Howell Signature Solution System. She explained that this equipment takes a snapshot of the signature, which goes to trained election officials verifying that signature with the signature on file. If there is any discrepancy between the two signatures, it will go to a second layer of review. After the second review, if there are still concerns, the voter will be notified and will have the

opportunity to "share" it. She mentioned that the three vote-by-mail states - Oregon, Washington, and Colorado - use some level of signature verification. She said that Washington trains its election officials with the Washington State Patrol (WSP) troopers in signature verification. She relayed that last month, the Anchorage Assembly passed additional laws to fully complete the transition including elements of the signature verification.

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REPRESENTATIVE KNOPP asked if [vote-by-mail] has been discussed within the Alaska Municipal League (AML) and if that organization has expressed any concerns.

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BARBARA JONES, Municipal Clerk, Municipal Clerk's Office, Municipality of Anchorage, stated that the Municipal Clerk's Office staff communicate regularly with AML through a clerks' advisory group of about ten municipal clerks representing various areas of the state. She said that MOA clerks have been asked if they have identified any gaps or mistakes in the vote-by-mail process. She asserted that she has not received any negative feedback from clerks in the AML advisory group. She mentioned that her office invited the clerks to visit MOA's new election center last month. She added that some of the clerks participated in training with MOA's vendor, Dominion Voting Systems. She mentioned that many of the other clerks are using this vendor. She concluded that her staff is working with the clerks' advisory group within AML but not with AML directly; however, she and her staff would be happy to do so.

REPRESENTATIVE KNOPP asked how long Colorado, Washington, and Oregon have been utilizing vote-by-mail and what MOA is learning from any problems it may have experienced. He asked if any legislation would be needed at the state level [for vote-by-mail], or if all decisions are at the local level.

MS. JONES responded that to her knowledge, no state legislation is necessary for Anchorage to utilize the vote-by-mail option. She added that Mr. Wheeler, formerly the municipal attorney, has explored that question and indicated no legislation is needed.

MS. MOSER, in answer to Representative Knopp's first question, replied that Oregon has used vote-by mail since 2000; Washington has been transitioning to vote-by-mail county by county since

mid-2000 and was fully vote-by-mail for the 2012 election; Colorado has most recently transitioned to vote-by-mail and used that method completely for the 2014 election. She stated that the Municipal Clerk's Office has worked closely with various jurisdictions within Washington state - King County, Pierce County, and Thurston County - and has built relationships with Denver, Colorado, and Multnomah County, Oregon. She maintained that these entities have shared their best practices and challenges; they have provided mentoring and coaching as the Municipal Clerk's Office has explored the transition.

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REPRESENTATIVE WOOL referred to poor local election participation and asked if there has been discussion regarding holding local elections and state and national elections on the same day to increase local election participation and maximize resources.

MS. MOSER answered that MOA has explored this possibility and one of the challenges is that the municipal election is very complicated with 42 different ballot styles and multiple split precincts with multiple ballot styles at each precinct. She stated that the challenge of having the election on the same day is due in part to MOA sharing the state's voting equipment; the municipality would have to purchase separate equipment if the two elections are on the same day. She mentioned that staff explored this option when Representative Birch, then a member of the assembly, introduced legislation to combine the elections.

REPRESENTATIVE WOOL commented that his suggestion was due to low voter participation during local elections and much greater participation during the November general elections, but he added that he realizes that there are technical challenges to combine elections.

MS. MOSER replied that another component of the challenge of having a combined election is that municipalities have elections yearly and the state has elections every two years. She mentioned that would create an impact on the "off" years.

REPRESENTATIVE WOOL suggested that the effect is like the effect that a presidential election has on voter participation in state elections.

[3:37:53 PM](#)

REPRESENTATIVE BIRCH asserted that having one election day creates better voter participation than multiple days. He relayed that Anchorage did schedule its elections to occur on one day, but this did not continue.

[3:38:56 PM](#)

CHAIR KREISS-TOMKINS referred to vote-by-mail occurring in some precincts of the Kenai Peninsula Borough (KPB). He asked if that is a model or template for what Anchorage is doing and to what extent it is occurring in Alaska.

MS. MOSER responded that KPB has six precincts that vote by mail; they are precincts that are (indisc.) and have been voting by mail for the past five years. She relayed that her staff has worked with Johni [Blankenship, Borough Clerk, KPB] and received feedback. Ms. Blankenship reported increased voter engagement at the vote-by-mail precincts.

[3:40:15 PM](#)

REPRESENTATIVE KNOPP confirmed that Ms. Blankenship is an advocate for vote-by-mail, primarily because of the challenge of finding election workers and because of the expense of elections. He said that he believes the six vote-by-mail precincts to be Seldovia, Port Graham, English Bay [on the other side of Kachemak Bay], Tyonek [on the other side of Cook Inlet], and Hope. He relayed that at the time the KPB assembly considered an election ordinance regarding vote-by-mail, financial analysis indicated that conducting a borough-wide vote-by-mail would be more expensive; the cost of printing was the issue. He said that Ms. Blankenship relayed to him that the printers have upgraded their equipment and the costs would be substantially less. He mentioned that she is certain that vote-by-mail would increase voter participation dramatically.

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REPRESENTATIVE JOHNSON commented that Matanuska-Susitna (Mat-Su) Borough also attempted to schedule all the elections for a single day; however, shared voting machines and other complications prevented it. She opined that it seems like a good idea.

[3:42:12 PM](#)

REPRESENTATIVE WOOL suggested that one machine could read one ballot and the computer could "solve it all in the end."

MS. MOSER mentioned that her office has identified some challenges with the AccuVote [Optical Scan] system borrowed from the State of Alaska. She expressed appreciation for all the 122 polling locations across Anchorage, including recreation centers, schools, and churches. She said that each year there are scheduling conflicts that prevent some locations being used, and this presents challenges for her office. She conceded that moving to vote-by-mail would be a big transition, but her staff is beginning to recognize there are other challenges beside the three she initially named, which could possibly be addressed through vote-by-mail.

MS. JONES offered to provide additional information upon request and invited committee members to join the stakeholders group [established by the Municipal Clerk's Office].

HB 181-LEGISLATURE PER DIEM AND TRAVEL ALLOWANCE

[3:45:10 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 181, "An Act relating to per diem for legislators; relating to a travel allowance for legislators and legislative employees; and relating to the State Officers Compensation Commission." [Before the committee, adopted as a work draft on 3/28/17, was the proposed committee substitute (CS) for HB 181, Version 30-LS0717\J, Gardner, 3/28/17, hereafter referred to as Version J.]

[3:45:47 PM](#)

BERETT WILBER, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, on behalf of Representative Kreiss-Tomkins, prime sponsor of HB 181, referred to the email, included in the committee packet, stating answers to questions that were posed in the House State Affairs Standing Committee meeting of 3/28/17.

MS. WILBER relayed question 1: "How does the State Officer's Compensation Commission (SOCC) recommendation process work, and what does the SOCC consider?" She mentioned that Kate Sheehan [Director, Division of Personnel and Labor Relations (DPLR), Department of Administration (DOA)] relayed during the 3/28/17

committee meeting that the SOCC systematically considers each group for which it is charged with making recommendations at its meetings: the governor and the lieutenant governor; legislators; and department commissioners. After considering each position or group of positions, it decides whether to make recommendations. She indicated that in the event it chooses not to make recommendations, it sends a letter stating that it has chosen not to make recommendations to change salaries or compensation. She said that all the information - including minutes of the SOCC hearings, public testimony, and SOCC reports - can be found on the SOCC website and is accessible through a link on the Alaska State Legislature's Bill Action & Status Inquiry System (BASIS).

MS. WILBER stated question 2: "If SOCC currently has legal authority to set legislative per diem, why does the Legislative Council Joint Committee (Legislative Council) still set the policy?" She explained that in 2009 - a year after the SOCC had been formally established - it issued its first set of recommendations. The SOCC recommended that Legislative Council should continue to set moving expenses and per diem allowances for legislators in addition to salary increases for legislators and commissioners. She stated that since the legislature took no action to reject those recommendations, they were adopted "as law." She added that AS 24.10.130(c) requires Legislative Council to set a per diem policy for legislators in accordance with whatever the SOCC recommends. Since the SOCC recommended that Legislative Council continue to set legislative per diem, Legislative Council, following the letter of the law, has continued to do so.

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REPRESENTATIVE WOOL asked for clarification on the answer to question 2. He stated his understanding that former Representative Mike Doogan intended the SOCC to set per diem; the SOCC was tasked with setting per diem; the recommendation by the SOCC was that Legislative Council continue to set per diem; therefore, Legislative Council agreed to continue to set per diem.

MS. WILBER responded that under the 2008 authorizing legislation, the SOCC was required to set policies on allowances, benefits, and salary. She relayed that per diem falls under those policies; however, there was no specific mandate that the SOCC set a rate of per diem. She added that it

was fully within the authority of the SOCC to ask Legislative Council to continue to recommend per diem rates.

REPRESENTATIVE WOOL referred to the statutes and commented that the direction regarding establishing per diem "seemed kind of circular." He suggested that the SOCC could set per diem, transmit it in a recommendation, and it would be acceptable.

MS. WILBER answered yes.

REPRESENTATIVE WOOL asked what the necessity is for the proposed legislation; the SOCC already has the authority to set per diem, even though it hasn't chosen to do so.

MS. WILBER replied, "That is true." She said the SOCC currently has the authority to set legislative per diem; it has chosen to pass that task on to Legislative Council. She offered that under Version J, the SOCC would be required to recommend per diem, and Legislative Council no longer would have the authority to set a policy in accordance with the SOCC's recommendations. The policy for per diem would be that which was recommended by the SOCC.

REPRESENTATIVE WOOL asked if under Version J, the SOCC would have to set the per diem - a definitive actual dollar amount - and not be allowed to defer to Legislative Council for the per diem recommendation.

MS. WILBER responded that Representative Wool's assessment was not quite correct. She stated that the SOCC does not have to set a precise numerical rate for per diem under Version J; it would be responsible for setting the policy. She relayed a hypothetical example: the SOCC recommends that the per diem rate be 200 percent of the federal per diem rate. She reiterated that it does not have to set a precise numerical rate.

REPRESENTATIVE WOOL offered his understanding that under Version J, the SOCC could not, as policy, recommend that some other entity recommend a per diem rate.

MS. WILBER replied that Version J states that legislators may receive per diem allowance during the legislative sessions as recommended by the SOCC. She said that the mechanism that legally allowed Legislative Council to set policy in accordance with what the SOCC recommended would be taken out of statute under Version J. She referred to page 1, line 14, of Version J

and pointed out that the proposed legislation deletes "an applicable per diem allowance policy" from the section allowing Legislative Council to set policy in accordance with what the SOCC recommends. She mentioned that she would get a legal opinion on this point; however, she offered her understanding that Legislative Council's authority to set per diem does not exist under Version J.

[3:55:44 PM](#)

REPRESENTATIVE KNOPP paraphrased from the answer to question 2 regarding legal authority to set per diem, which read as follows [original punctuation provided]:

The SOCC's recommendations, along with salary increases for legislators and commissions, included the following instructions:

Session per diem, travel expenses, moving allowances, and office expense accounts shall not be considered compensation. (**AS 24.10.100.**)

The Legislative Council shall set the amount and rules governing moving expense and per diem allowances. (**AS 24.10.130.**)

REPRESENTATIVE KNOPP asked if the SOCC currently has the authority to set per diem, since the SOCC is a compensation commission and the statute clearly says per diem is not compensation.

MS. WILBER explained that the language that Representative Knopp cited is from the 2009 recommendation of the SOCC, not state statute. She said that AS 24.10.130 does not specifically say that "Legislative Council shall set the amount and rules governing moving expenses and per diem allowances"; the SOCC cites AS 24.10.130 as the authority under which Legislative Council can continue to do so.

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REPRESENTATIVE WOOL repeated the first sentence under "instructions" [in the answer to question 2 in the e-mail], which read [original punctuation provided]: "Session per diem, travel expenses, moving allowances, and office expense accounts shall not be considered compensation. (**AS 24.10.100.**)" He

suggested that the implication is that the language immediately preceding the reference is included in that statute.

MS. WILBER apologized for the lack of clarity. She stated that the SOCC included a reference to AS 24.10.100 within its policy recommendations; the sentence before it does not refer to the statutory language of AS 24.10.100, which read:

Sec. 24.10.100. Salary of legislators.

Legislators shall receive a monthly salary under AS 39.23. The president of the senate and the speaker of the house of representatives may receive additional compensation under AS 39.23 during tenure of office.

REPRESENTATIVE WOOL asked who makes the decision that per diem is not compensation. He offered his understanding that per diem is for room and board and not to be considered compensation even if it is more than expenses.

MS. WILBER replied that in her research on this issue, she discovered inconsistency in "what group decides what compensation is." She deferred the question to Jessica Geary, Finance Manager, Legislative Administrative Services (LAS) [Legislative Affairs Agency (LAA)].

REPRESENTATIVE WOOL restated his question regarding who decided that per diem is not compensation? He asked if per diem not being considered compensation was for Internal Revenue Service (IRS) purposes.

[4:01:06 PM](#)

JESSICA GEARY, Finance Manager, Legislative Administrative Services(LAS), Legislative Affairs Agency(LAA), stated that there are two ways to look at compensation: taxable compensation and untaxable compensation. She said that per diem is a reimbursement of expenses; the IRS states that if the amount does not exceed the maximum federal rate, one does not have to pay taxes on that per diem and it is deemed "substantiated." She stated that is the rule the agency follows; the Alaska Society of Certified Public Accountants (ASCPA) prepares a legislator tax guide each year, which reviews the rates and other issues. She reiterated that per diem is reimbursement for expenses.

[4:02:17 PM](#)

REPRESENTATIVE JOHNSON expressed her understanding that the federal government has declared per diem non-taxable.

MS. GEARY responded that there is a special section of IRS code, which is 162(h), that applies specifically to state legislators. She said that it covers different circumstances; legislators participating in a legislative session can receive per diem allowance up to the maximum federal rate for every day that the legislature is in session.

REPRESENTATIVE JOHNSON asked for clarification that the amount up to the federal rate is non-taxable.

MS. GEARY replied that is correct as long as the maximum federal rate is not exceeded.

REPRESENTATIVE JOHNSON asked if per diem is referred to as compensation if it is taxable. She added, "... but maybe it's just a matter of semantics."

MS. GEARY answered that's accurate. She said in one case it is considered reimbursement; in another it is considered income. She added that even if you are taxed on the amount, it is reimbursement for expenses. She offered that if a per diem rate exceeding the federal rate was authorized, part would be reimbursement and the excess would be income; to the legislators it is still referred to as "session per diem."

[4:04:00 PM](#)

REPRESENTATIVE WOOL asked if legislators have always received 100 percent of federal per diem.

MS. GEARY replied that they have received the maximum federal rate since 1994, when the federal rate was established.

REPRESENTATIVE WOOL mentioned the different situation of the Juneau legislators: they get per diem, but it is taxed; and they do not receive housing reimbursement. He asked if their per diem is not considered compensation.

MS. GEARY responded that it depends on how it is viewed. She said it is compensation, because it is taxed; however, it is also session per diem.

[4:05:35 PM](#)

REPRESENTATIVE KNOPP restated that any amount over the federal maximum rate is taxable, and legislators currently receive the federal rate while the legislature is in session. He said the federal rate is comprised of the short-term rate for 30 days or less and the long-term rate for 31 days to 180 days. He stated that legislators are receiving the short-term rate, even when they exceed 30 days. He asked if the difference between the short-term rate, which is \$275, and the long-term rate, which is about \$206, is taxable income.

MS. GEARY explained that the long-term rate established by the federal government in November 2014 applies to those traveling under the federal travel policy. She mentioned that the federal government has strict rules in its travel policy, which the legislators are not required to follow; Alaska's legislators are not required to use the federal long-term rates. She concluded by saying that if the legislative per diem rate does not exceed the federal maximum per diem rate, it will not be taxed.

[4:07:43 PM](#)

MS. WILBER continued by stating question 3: "How does per diem work for State of Alaska (SOA) executive branch employees?" She relayed that SOA employees have different per diem rates than legislators and legislative employees; the rates are set by the commissioner of the Department of Administration (DOA) or by collective bargaining. She referred to additional documents further detailing SOA employee per diem rates, which can be accessed digitally through the links on the e-mail: "State travel office"; "one-pager on the SOA rates"; and "Alaska Administrative Manual section on travel."

[4:09:24 PM](#)

MS. WILBER relayed question 4: "How does taxation on per diem rates work?" She mentioned that the IRS allows legislators whose permanent residences are greater than 50 miles from the state capitol to receive up to the federal maximum rate of per diem without being taxed on it. She said Alaska's policy is that legislators who reside within the 50 miles receive 75 percent of the federal per diem rate, and the money they receive is subject to taxation by the IRS.

[4:10:11 PM](#)

MS. WILBER stated question 5: "What kind of per diem do legislative staff receive?" She said that legislative staff are

eligible to receive per diem when they are traveling for work; they do not receive a "session per diem" as do legislators; and they are entitled to reimbursement for lodging, meals, and travel when they are traveling to the state capital or returning to their places of residence after the session. She cited the 2006 Alaska Supreme Court case, Benavides v. State, which definitively determined that legislative aides would not receive session per diem at the same rate as legislators.

MS. WILBER relayed question 6: "How does the pay for legislative staffers compare with the pay in the other branches of [state] government?" She mentioned that this question was about Representative Wool's suggestion during the 3/28/17 House State Affairs Standing Committee meeting that salaries for legislative staff are adjusted and therefore do not match the salaries for similar positions in other branches of government. She relayed that in consulting with Ms. Geary, she learned that positions in the different branches are not necessarily comparable. Ms. Geary explained that political staffers are paid at a rate two or four ranges higher [than a comparable executive branch employee] to compensate them for not receiving overtime pay or per diem and because their positions tend to be more "volatile" than non-political positions.

[4:12:41 PM](#)

REPRESENTATIVE BIRCH expressed his appreciation for the information presented.

REPRESENTATIVE WOOL concurred. He asked for the number of states in which the legislators decide their own salaries through legislation.

MS. WILBER replied that she did not know but would provide that information.

[4:13:56 PM](#)

REPRESENTATIVE JOHNSON asked what year the legislature transitioned from an all-year session to a 120-day session.

MS. WILBER responded that she did not know the history of the length of the legislative session in Alaska.

REPRESENTATIVE WOOL expressed his belief that in 2006, a law was passed to reduce the session from 120 days to 90 days; however, the Alaska Constitution [allows for the 120 days].

4:15:05 PM

REPRESENTATIVE BIRCH referred to the increase in legislative salaries from \$24,000 to [\$50,400] in 2006. He said that prior to that, legislators were pro-rating interim per diem; when the salary was increased, interim per diem was eliminated.

REPRESENTATIVE WOOL stated that Representative Birch's comments refer to changes in salary and per diem structures. He suggested that there was a change in the Alaska Constitution making the session 120 days. He mentioned a time well in the past in which session was "open-ended" and lasted well into the summer.

REPRESENTATIVE JOHNSON recollected there being long legislative sessions when she was a child, and there were breaks. She said that at some point, session was reduced to 120 days, then to 90 days. She offered that she was trying to find a correlation between the length of the session and the per diem and salary rates. She noted that from 1983 to 1987, the legislative salary was \$3,900 per month, but she has no information on the rate of per diem at that time.

4:17:30 PM

REPRESENTATIVE KNOPP expressed his appreciation for the legislative history presented in the packet. He referred Representative Johnson to the information in the packet reflecting the Juneau and non-Juneau legislative rates and the Legislative Council rate adjustments.

MS. WILBER stated that the document entitled "Session and Interim Per Diem History" was provided by the LAA staff. She also pointed out that the Interim per diem and the salary raise, which was discussed, occurred in 2009 with the first set of recommendations from the SOCC.

4:19:43 PM

REPRESENTATIVE KNOPP stated that he does not support the proposed legislation. He offered that the issue being addressed by HB 181 is: Is it appropriate for Legislative Council - members of the legislative bodies - to set per diem rates for legislators? He said that Legislative Council meets about every two years, and the federal government has adjusted compensation rates three times in the last 15 months. He pointed out the

many times Legislative Council has adjusted legislative per diem rates to react to the federal government's actions. He suggested that the amount of work necessary for Legislative Council to set the rates is "incredible"; he is concerned with the SOCC arbitrarily setting the rates; and he mentioned the extensive work by the federal government to determine the rates. He stated that he preferred that the long-term federal rate be adopted and would support a concurrent resolution by both bodies to do so.

MS. WILBER responded that every year since its inception in 2009 the SOCC has issued either recommendations or transmittals that there would be no recommendations, excluding 2010. She mentioned that Legislative Council set legislative per diem at the federal rate in 1994, and it does not do any additional work when the rate changes. The LAA accounting staff makes the adjustment.

REPRESENTATIVE KNOPP conceded that the additional work would be performed by LAA staff; however, in using the federal rate, the work already would have been done. He expressed his belief that it would be difficult for the SOCC to determine the per diem rate and said that he suspects the SOCC would use the federal rate to set per diem. He opined that the short-term rate is "over the top" and the long-term rate would be more appropriate compensation.

[4:25:50 PM](#)

REPRESENTATIVE WOOL said that he concurred with Representative Knopp. He suggested that using the maximum federal rate of per diem has been easy to calculate and set. He mentioned that the SOCC has met almost annually; it has made recommendations on salaries, excluding those of the legislators, which has not changed since 2008; and it has statutory authority to make recommendations, but has deferred to Legislative Council. He stated that the proposed legislation would mandate that the SOCC set the rate instead of Legislative Council. He offered that the effect of the proposed legislation would be slight and said he is "okay with the status quo as long as it doesn't get abridged." He said, "I'm not sure it's as broken as people think, except it gets politicized a lot. Hopefully, if the system is working, it will stay within this framework."

MS. WILBER clarified that under Version J, the SOCC would not be required to select the amount of per diem; it would be required to set the policy. She offered that the SOCC could choose to

set a flexible scale, like the fluctuating federal per diem; they could choose to stay with the federal per diem rate; they could choose to use the short-term rate; or they could choose to use the long-term rate - 75 per cent of the federal per diem rate. She stated that the benefit of requiring the SOCC to set the per diem rate, as opposed to Legislative Council, is that doing so "takes the decision out of the political realm." She added that even though it may be easy to have Legislative Council set per diem policy, it inherently politicizes the issue; having an apolitical body, such as the SOCC, set per diem would remove the politicization.

REPRESENTATIVE WOOL expressed his understanding that the proposed legislation would not remove politicization, because the legislature must introduce a bill within a certain period to adjust the recommendation. Once the bill is introduced, the issue becomes political. He opined that removing the political aspect of the process is impossible. He suggested that in more than half of states, the legislature is involved in setting compensation.

MS. WILBER clarified that currently and under the proposed legislation, the legislature cannot adjust the SOCC's recommendations; it can only reject them through legislation.

[4:31:30 PM](#)

REPRESENTATIVE KNOPP asked if setting a policy through a joint resolution would de-politicize the issue.

CHAIR KREISS-TOMKINS commented that the House does "weigh in" through an operating budget floor amendment. He opined that a joint resolution has merit.

MS. WILBER responded that she does not know which process would be less political, but she opined that passing legislation of any type is inherently political. She offered that the advantage of the SOCC is that it is not comprised of legislators, but of civilians with no political futures.

[4:33:07 PM](#)

REPRESENTATIVE TUCK referred to [Section 5] of the proposed legislation, which read as follows:

It is the policy of the legislature that the commission recommend an equitable rate and form of

compensation, per diem allowances during legislative sessions, benefits, and other allowances for legislators.

REPRESENTATIVE TUCK asked if his understanding is correct: The authority still lies with the legislature, as the recommendation comes through the legislature. In 2009, the recommendation was adopted because of the legislature not disapproving it. Under the proposed legislation, the legislature still can disapprove; it would not lose its authority; and the SOCC would make its recommendations, which would become policy unless the Legislature disapproves.

MS. WILBER said, "Yes, that is correct." She added that the proposed legislation would not change the mechanism by which the SOCC makes recommendations; it merely would add per diem to the list of items that it must recommend. She said the legislators' ability to reject the recommendations or allow them to be adopted through no action would remain unchanged under Version J.

REPRESENTATIVE TUCK commented that he supports the proposed legislation. He stated that the SOCC has performed well in the past in setting compensation. He expressed his belief that the SOCC's recommendation puts the public at ease, especially in the event of salary, per diem, or benefit increases; it provides "cover" for the legislature; it is made up of public members; and legislators are permitted to testify to the SOCC. He reiterated that the proposed legislation represents a good public process.

[4:36:12 PM](#)

CHAIR KREISS-TOMKINS opened public testimony on HB 181. After ascertaining that there was no one who wished to testify, he closed public testimony.

REPRESENTATIVE WOOL asked why the SOCC has not recommended a salary increase for legislators since 2008.

[4:37:19 PM](#)

KATE SHEEHAN, Director, Division of Personnel and Labor Relations (DPLR), Department of Administration (DOA), informed the committee that she serves as secretary to the SOCC. She answered that SOCC's discussion about compensation has varied from meeting to meeting. She said that when the SOCC decided to

take no action, it was due to budget constraints. She stated that in the last meeting, the SOCC's only recommendation was to allow a deputy commissioner to keep his/her salary in the event he/she became commissioner at a lower salary. She relayed that in the meeting before the last, the SOCC recommended increases to the governor's, lieutenant governor's, and commissioners' salaries; it consulted the Consumer Price Index (CPI) and geographic differentials for commissioners. She said that former Governor Sean Parnell stated that he would decline a pay increase for himself but supported the increase for commissioners. Ms. Sheehan added that the legislature rejected the SOCC recommendations that year.

REPRESENTATIVE WOOL asked if the recommendations Ms. Sheehan related were the only recommendations the SOCC has made since its inception.

MS. SHEEHAN replied that she would have to review prior meeting [minutes], but she confirmed that there has been no recommendation on legislator salaries after the 2009 recommendation.

REPRESENTATIVE WOOL commented that there may be some expectation that a legislator's job is "not about the money" but is public service. He said for a professional in the executive branch, the position is considered a fulltime career. He suggested that cost of living, inflation, and CPI should be considered regarding legislator salaries.

MS. SHEEHAN relayed that in the last [SOCC] meeting, most of the discussion was concerning the state budget situation. She mentioned that she would have to review the minutes of prior meetings to be able to report on the discussions that took place.

[4:40:21 PM](#)

REPRESENTATIVE TUCK asked when the last wage increase for legislators was prior to 2009. He suggested that it had been a long time since any wage increase before that year.

MS. SHEEHAN replied that she did not recall.

MS. WILBER answered that she also did not have that information.

[4:41:47 PM](#)

REPRESENTATIVE LEDOUX moved to report CSHB 181, Version 30-LS0717\J, Gardner, 3/28/17, out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE KNOPP objected.

[4:42:10 PM](#)

A roll call vote was taken. Representatives Tuck, LeDoux, Johnson, and Kreiss-Tomkins voted in favor of moving CSHB 181, Version 30-LS0717\J, Gardner, 3/28/17, out of committee with individual recommendations and the accompanying zero fiscal note. Representatives Knopp and Wool voted against it. Therefore, CSHB 181(STA) was reported out of the House State Affairs Standing Committee by a vote of 4-2.

[4:43:27 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:43 p.m.