

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 27, 2018

3:32 p.m.

MEMBERS PRESENT

Senator Kevin Meyer, Chair
Senator David Wilson
Senator Cathy Giessel
Senator John Coghill
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARINGS

Alaska Police Standards Council

Michael Craig - Anchorage
Justin Doll - Anchorage
David Knapp - Palmer
Larry "Shane" Nicholson - Kodiak

- CONFIRMATIONS ADVANCED

Alaska Public Offices Commission

Anne Helzer - Anchorage

- CONFIRMATION ADVANCED

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; and requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest."

- MOVED SCS CSSSHB 44 (STA) OUT OF COMMITTEE

SENATE BILL NO. 186

"An Act relating to voter registration; and providing for an effective date."

- MOVED CSSB 186(STA) OUT OF COMMITTEE

HOUSE BILL NO. 138

"An Act establishing the month of March as Sobriety Awareness Month."

- MOVED HB 138 OUT OF COMMITTEE

SENATE BILL NO. 210

"An Act relating to the misrepresentation of seafood and seafood ingredients by retail food establishments."

- MOVED SB 210 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

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
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(A) 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 CSSHB 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
 02/21/17 (H) Heard & Held
 02/21/17 (H) MINUTE(STA)
 02/21/17 (H) STA AT 5:30 PM GRUENBERG 120
 02/21/17 (H) Heard & Held
 02/21/17 (H) MINUTE(STA)
 03/02/17 (H) STA AT 3:00 PM GRUENBERG 120
 03/02/17 (H) Heard & Held
 03/02/17 (H) MINUTE(STA)
 03/07/17 (H) STA AT 5:30 PM GRUENBERG 120
 03/07/17 (H) Heard & Held
 03/07/17 (H) MINUTE(STA)
 03/28/17 (H) STA AT 3:00 PM GRUENBERG 120
 03/28/17 (H) Moved CS SSHB 44(STA) Out of Committee
 03/28/17 (H) MINUTE(STA)
 04/03/17 (H) STA RPT CS(STA) NT 3DP 1DNP 3NR
 04/03/17 (H) DP: LEDOUX, TUCK, KREISS-TOMKINS
 04/03/17 (H) DNP: BIRCH
 04/03/17 (H) NR: JOHNSON, WOOL, KNOPP
 04/08/17 (H) SUSTAINED RULING OF CHAIR Y23 N16 E1
 04/08/17 (H) BEFORE HOUSE IN SECOND READING
 04/08/17 (H) TRANSMITTED TO (S)
 04/08/17 (H) VERSION: CSSSHB 44(STA)
 04/10/17 (S) READ THE FIRST TIME - REFERRALS
 04/10/17 (S) STA, JUD
 02/20/18 (S) STA AT 3:30 PM BUTROVICH 205
 02/20/18 (S) Heard & Held
 02/20/18 (S) MINUTE(STA)
 02/22/18 (S) STA AT 3:30 PM BUTROVICH 205
 02/22/18 (S) Heard & Held
 02/22/18 (S) MINUTE(STA)
 03/23/18 (S) FIN REFERRAL ADDED AFTER JUD
 03/27/18 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 186

SHORT TITLE: VOTER REGISTRATION & PFD APP REGISTRATION
 SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/16/18 (S) READ THE FIRST TIME - REFERRALS
 02/16/18 (S) STA, FIN
 03/08/18 (S) STA AT 3:30 PM BUTROVICH 205
 03/08/18 (S) Heard & Held
 03/08/18 (S) MINUTE(STA)
 03/22/18 (S) STA AT 3:30 PM BUTROVICH 205

03/22/18 (S) Heard & Held
03/22/18 (S) MINUTE(STA)
03/27/18 (S) STA AT 3:30 PM BUTROVICH 205

BILL: HB 138

SHORT TITLE: MARCH: SOBRIETY AWARENESS MONTH

SPONSOR(s): REPRESENTATIVE(s) SPOHNHOLZ

02/22/17 (H) READ THE FIRST TIME - REFERRALS
02/22/17 (H) HSS, CRA
03/07/17 (H) HSS AT 3:00 PM CAPITOL 106
03/07/17 (H) Heard & Held
03/07/17 (H) MINUTE(HSS)
03/23/17 (H) HSS AT 3:00 PM CAPITOL 106
03/23/17 (H) Moved HB 138 Out of Committee
03/23/17 (H) MINUTE(HSS)
03/24/17 (H) HSS RPT 6DP 1NR
03/24/17 (H) DP: JOHNSTON, TARR, EDGMON, SULLIVAN-
LEONARD, KITO, SPOHNHOLZ
03/24/17 (H) NR: EASTMAN
04/04/17 (H) CRA AT 8:00 AM BARNES 124
04/04/17 (H) Moved HB 138 Out of Committee
04/04/17 (H) MINUTE(CRA)
04/05/17 (H) CRA RPT 5DP
04/05/17 (H) DP: WESTLAKE, SADDLER, TALERICO,
DRUMMOND, FANSLER
04/07/17 (H) TRANSMITTED TO (S)
04/07/17 (H) VERSION: HB 138
04/10/17 (S) READ THE FIRST TIME - REFERRALS
04/10/17 (S) HSS, STA
02/12/18 (S) RETURNED TO HOUSE PER REQUEST
02/14/18 (H) BILL RECEIVED IN HOUSE
02/14/18 (H) BILL REPRINTED 2/14/18
02/14/18 (H) RETURNED TO SENATE
03/14/18 (S) HSS AT 1:30 PM BUTROVICH 205
03/14/18 (S) Moved HB 138 Out of Committee
03/14/18 (S) MINUTE(HSS)
03/16/18 (S) HSS RPT 4DP
03/16/18 (S) DP: WILSON, BEGICH, VON IMHOF, MICCICHE
03/27/18 (S) STA AT 3:30 PM BUTROVICH 205

BILL: SB 210

SHORT TITLE: SEAFOOD MISREPRESENTATION ON MENUS

SPONSOR(s): SENATOR(s) WIELECHOWSKI

02/19/18 (S) READ THE FIRST TIME - REFERRALS
02/19/18 (S) STA, JUD

WITNESS REGISTER

DAVID KNAPP, Appointee
Alaska Police Standards Council
Palmer, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

LARRY SHANE NICHOLSON, Appointee
Alaska Police Standards Council
Kodiak, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

JUSTIN DOLL, Appointee
Alaska Police Standards Council
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

MIKE CRAIG, Appointee
Alaska Police Standards Council
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Police Standards Council.

ANNE HELZER, Appointee
Alaska Public Offices Commission
Alaska Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Alaska Public Offices Commission.

CHRISTINE MARASIGAN, Staff
Senator Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Addressed a committee substitute (CS) for HB 44, a legal memo from Legislative Legal, and Senate Concurrent Resolution (SCR) for a title change to HB 44.

DAN WAYNE, Legislative Counsel
Division of Legal and Research Services
Legislative Affairs Agency
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Addressed his memo regarding the constitutionality of HB 44 and the initiative called "The Alaska Government Accountability Act."

LIBBY BAKALAR, Assistant Attorney General
Civil Division
Labor & State Affairs Section
Alaska Department of Law
Juneau, Alaska

POSITION STATEMENT: Addressed constitutionality questions regarding HB 44 and the initiative called "The Alaska Government Accountability Act."

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

POSITION STATEMENT: Testified on HB 44 and the initiative called "The Alaska Government Accountability Act."

CHRITINE MARASIGAN, Staff
Senator Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided an overview of the CS for SB 186.

JOSE BAHNKE, Director
Alaska Division of Elections
Office of the Lieutenant Governor
Juneau, Alaska

POSITION STATEMENT: Addressed the division's amendment for SB 186.

REPRESENTATIVE IVY SPOHNHOLZ
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 138, provided an overview.

TASHA ELIZARDE, Staff
Representative Spohnholz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided the sectional analysis for HB 138.

KIM ZELLO, Advocate
Fallen Up Ministries

Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 138.

JULIE KITKA, President
Alaska Federation of Natives
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 138.

TIFFANY HALL, Executive Director
Recover Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 138

SENATOR BILL WIELECHOWSKI
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 210.

NATE GRAHAM, Staff
Senator Wielechowski
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a sectional analysis of SB 210.

ACTION NARRATIVE

[3:32:32 PM](#)

CHAIR KEVIN MEYER called the Senate State Affairs Standing Committee meeting to order at 3:32 p.m. Present at the call to order were Senators Giessel, Coghill, Wilson, Egan, and Chair Meyer.

CONFIRMATION HEARINGS

Alaska Police Standards Council

Alaska Public Office Commission

[3:33:38 PM](#)

CHAIR MEYER announced the consideration of the governor's appointees. He asked the conferees to state their name and provide the committee with a brief orientation about why they want to be appointed or reappointed to the Alaska Police Standards Council.

[3:34:24 PM](#)

DAVID KNAPP, Appointee, Alaska Police Standards Council, Palmer, Alaska, disclosed that he is a sergeant with the Alaska

Department of Corrections. He detailed that he has been with the department for 13 years.

CHAIR MEYER asked if Sergeant Knapp was currently on the Alaska Police Standard Council.

SERGEANT KNAPP answered yes. He disclosed that he has attended one meeting.

[3:35:03 PM](#)

LARRY SHANE NICHOLSON, Appointee, Alaska Police Standards Council, Kodiak, Alaska, disclosed that he is a sergeant with the Alaska Wildlife Troopers. He detailed that he has been with the Alaska State Troopers for 19 years and referenced his curriculum vitae. He noted that he was recently appointed and has not attended any meetings.

[3:35:57 PM](#)

JUSTIN DOLL, Appointee, Alaska Police Standards Council, Anchorage, Alaska, disclosed that he is the chief of police for the Anchorage Police Department. He detailed that he has been with the Anchorage Police Department for 22 years. He revealed that he has been newly appointed to the council.

[3:36:41 PM](#)

MIKE CRAIG, appointee, Alaska Police Standards Council, Anchorage, Alaska, revealed that he has worked for Alyeska Pipeline for 35 years and noted that for the past 2 years has acted as the employee-concerns coordinator. He opined that his current position with Alyeska Pipeline fits well with the charge of what the council is hearing regarding conduct. He detailed that he filled a spot on the council at the end of 2017 when Mr. Richard Burton retired.

[3:37:30 PM](#)

CHAIR MEYER opened and closed public testimony.

SENATOR COGHILL said he had heard testimony from the appointees in the Senator Judiciary Committee and noted that there were not many questions but a lot of congratulations.

CHAIR MEYER agreed that all four appointees are great and will do a fantastic job.

CHAIR MEYER read the following:

In accordance with AS 39.05.080, the Senate State Affairs Committee has reviewed the appointees and recommends the appointments be forwarded to a joint session for consideration; this does not reflect intent of any members to vote for or against the confirmation of the individuals during any further sessions.

CHAIR MEYER announced that the next appointee is Anne Helzer for the Alaska Public Office Commission. He asked Ms. Helzer to provide committee members with a brief orientation of her background and address why she would like to serve on the Alaska Public Office Commission.

3:39:53 PM

ANNE HELZER, Appointee, Alaska Public Offices Commission (APOC), Alaska Department of Administration, Anchorage, Alaska, disclosed that she is an attorney who practices primarily in trusts and estates, and small business formation and guidance. She noted that she has attended a couple of APOC meetings. She asserted that she would provide APOC with an unbiased and impartial objective view on the proceedings. She emphasized that she is not politically motivated but has an interest in things that are done correctly and operating smoothly. She summarized that she is thrilled at the opportunity to serve the state as an APOC member.

SENATOR GIESSEL noted that the APOC fact sheet details that the commission has five members, two from each of the two political parties and one member nominated by the majority vote of the members of the commission. She asked which one of the descriptions fits Ms. Helzer.

MS. HELZER revealed that she is a registered Republican; however, she opined that her party affiliation would not carry any weight in her role with APOC. She expressed that the APOC issues tend to be statutory and she would have to be familiar with the rules and laws. She added that she should be able to take recommendations from staff members and other people that are providing information in each case.

3:42:36 PM

SENATOR GIESSEL remarked that party affiliation does play a role. She conceded that Ms. Helzer's adjudication should be impartial, but noted that the political parties put names forward for APOC. She asked how her name was put forward.

MS. HELZER answered that her understanding is she was nominated by several people.

SENATOR GIESSEL asked her to clarify that she really does not know whether one of the two political parties put her name forward as is customary for the APOC seats.

MS. HELZER surmised that she was appointed by Tuckerman Babcock, the Chair of the Alaska Republican Party, and other people also recommended her. She reiterated that she is a registered Republican but questioned her political affiliation for serving as an APOC member.

SENATOR GIESSEL suggested that Ms. Helzer look at the Boards and Commissions website and review APOC's fact sheet regarding the appointments to familiarize herself with the process. She thanked Ms. Helzer and noted that she appreciated her discussion about impartiality and following the law, something that is important.

[3:44:16 PM](#)

MS. HELZER replied that she would review the APOC appointment process.

CHAIR MEYER noted Ms. Helzer's academic and activity background and asked what brought her to Alaska.

MS. HELZER detailed that she went to college in New Hampshire where she met her husband who is from Anchorage. She detailed that both she and her husband decided to move to Alaska, something that she considered both as a risk and an adventure. She said she loves Alaska and considers the state her home even though she was born in New York. She said she is thrilled at the possibilities that Alaska brings and continues to bring her. She disclosed that she has a thriving law practice that is exciting. She detailed that she serves on the Anchorage Bar Association Board as president and is active in many organizations. She summarized that she is, "Very married to the state and will be here for the rest of her life."

CHAIR MEYER addressed Ms. Helzer's resume and noted that her preference was to be a member of the Alaska State Council on the Arts, Alaska Commission on Aging, and the Aviation Advisory Board, but was chosen to serve at APOC.

MS. HELZER replied that Chair Meyer's remark was not accurate. She specified that she was asked during her interview with the

Office of the Governor as to what other boards she would be interested in serving on and the boards that Chair Meyer noted are boards that she would be very interested in serving on, but she had come in for APOC.

[3:47:16 PM](#)

CHAIR MEYER opened and closed public testimony.

CHAIR MEYER read the following:

In accordance with AS 39.05.080, the Senate State Affairs Committee has reviewed the appointee and recommends the appointment be forwarded to a joint session for consideration; this does not reflect intent of any members to vote for or against the confirmation of the individual during any further sessions.

[3:49:01 PM](#)

At ease.

HB 44-LEGISLATURE: ETHICS, CONFLICTS, PER DIEM

[3:50:42 PM](#)

CHAIR MEYER announced the consideration of House Bill 44 (HB 44). He noted that the bill was heard on February 22 and there was a Senate committee substitute (CS) for consideration.

[3:51:07 PM](#)

SENATOR GIESSEL moved to adopt the Senate CS (SCS) for CSSSHB 44, version 30-LS0208\N as the working document.

CHAIR MEYER objected for discussion purposes.

[3:51:45 PM](#)

CHRISTINE MARASIGAN, Staff, Senator Meyer, Alaska State Legislature, Juneau, Alaska, stated that the Senate CS makes some substantive changes to the bill. She explained that it takes the rest of an initiative called "The Alaska Government Accountability Act," Petition ID: 17AKGA, and puts it squarely into HB 44.

She specified that there were five ideas in the initiative:

- Declaration of conflict; specifically, if a legislator or legislator's family has a financial interest of \$10,000 or more.

- Acceptance of de minimis food or non-alcoholic beverage for immediate consumption.
- Banning foreign travel.
- Eliminating per diem after 121 days.
- Not allowing foreign corporation or agents.

MS. MARASIGAN provided the following sectional analysis, pointing out where the "five ideas" are located:

In your CS, version: N, sections 1 and 2 are taken from the initiative, it's basically Section 9; this deals with the foreign corporation or national language, and that's what is in those two sections.

Sections 3, 4 and 5, found on page 6 of version N, the Section 3 addresses the issue of disallowing any foreign travel to be funded unless a report is made. Section 4 deals with no per diem after 120 days. Section 5 deals with moving expenses.

Section 6, we have the mention of the nonalcoholic beverage piece. The majority of the rest of the bill was in your original version R that you heard previously.

Section 7, that corresponds to Section 1 that you've heard previously about conflict of interest.

Section 8 corresponds to Section 2.

Section 9 corresponds to Section 3.

Section 11 corresponds to section 4.

Section 10 addresses alcoholic beverages.

The other major addition is having a new effective date, which is found in Section 17.

[3:55:08 PM](#)

She continued as follows:

Taking this initiative and putting it into statutory language, it takes some time simply because each, Department of Law, the Legislature, each organization has their way of drafting materials in order to conform with their material that they have with

statute or etcetera. So, there was an accompanying legal memo that was produced from Legislative Legal that points out that while this version N before you, the CS you have adopted is not absolutely identical, it is very similar in that both the initiative and the bill also raise constitutional issues.

The memo also points out the differences between the bill drafted before you and the initiative in that it can be attributed to drafting styles that I mentioned previously but it is still substantive; for example, one of little changes is that in the initiative we talk about a de minimis for food and drink where the bill before you simply states what we've been abiding by in our ethics language as \$15. Also, the applicability of the initiative's prohibition on campaign contributions and expenditures by foreign influenced corporations, that language did not meet up very well in the bill and in the initiative, and there's some issues with constitutionality that the drafter then points out in the legal memo to the committee. So, having said that, the memo is pretty clear that while there are some substantive differences between the bill, the real differences are very few and they amount to different ways of addressing identical issues. So, the drafters themselves said therefore while you can't predict the certainty of the outcome of potential litigation, if a court were to apply the three-part test to this that the bill would in fact displace the initiative from the election ballot.

There were four areas of constitutionality that the legal memo addressed. One was the salary and expenses of legislators, second was federal preemption, the third was freedom of speech and association, and the fourth was equal protection.

I do have legislative attorney Dan Wayne online to answer any specific questions. Committee members should be aware that this bill has a further referral to Senate Judiciary and has had an additional referral to Senate Finance.

[3:58:03 PM](#)

CHAIR MEYER asked Ms. Marasigan to verify that foreign travel is not prohibited, but it must be approved as a legislative purpose and a report must be filed after a legislator returns.

MS. MARASIGAN answered correct. She noted that the foreign travel stipulation is in both the bill and the initiative.

CHAIR MEYER commented on HB 44 and the initiative as follows:

I want to let the committee know HB 44 dealt with the conflict issue which I thought did a good job of defining what a conflict is, I believe it is \$10,000; and then we got thinking if that matches the initiative, let's look at the other things on the initiative and just see if we can combine everything else into this one bill, and if so then the initiative wouldn't need to go before the voters if we are close or close enough to the initiative.

So, looking at the other four items in the five parts of that initiative, they all seem to be, I think, a good idea as far as I was concerned and I'm hoping that the committee does as well, and I did talk to the sponsor both of this bill, HB 44, and also I believe he's one of the three cosponsors on the initiative, that's Representative Grenn, I spoke to him on Thursday and asked him if he was okay with this, and I didn't get answer.

So, I guess I don't know if no news is good news or he hadn't had a chance to talk to the other two yet; but, this bill does have two more committees to go to and I think the biggest question right now is the constitutionality of the bill and the initiative and so the bill goes to Judiciary next which I'm sure the Judiciary chair will iron that all out.

He addressed Mr. Wayne from Legislative Legal and noted that he wrote his opinion making himself clear that HB 44 may be unconstitutional; however, he noted that Mr. Wayne also believed that the initiative was also unconstitutional. He asked Mr. Wayne how the initiative got approved if the initiative was unconstitutional.

[4:00:51 PM](#)

DAN WAYNE, Legislative Counsel, Division of Legal and Research Services, Legislative Affairs Agency, Alaska State Legislature,

Juneau, Alaska, explained that the attorney general's opinion that accompanied the initiative does not talk about the constitutionality of the bill other than whether it meets the single-subject requirement in the constitution. He added that the same requirement that it applies to bills before the Legislature was addressed in the document on page 4 that says, "The bill is not clearly unconstitutional." He specified that the document did not certify that there were no constitutional problems with the bill and continued as follows:

They are not required to do that, they are just, I think, required to say whether or not the bill is clearly constitutional or not; they said it wasn't clearly unconstitutional, that's not really the same thing as saying that the bill is constitutional, and I don't think that they would disagree that there may be constitutional issues raised by the initiative.

One of the parts of the initiative that we think might have constitutionality issues is the prohibiting of payment of legislative per diem after 121 days. There's Article 11, Section 7 that says that, "The initiative shall not be used to dedicate revenues or make or repeal appropriations." If the initiative passed it could be interpreted as tantamount to repealing an appropriation, so we think that that is one constitutional issue; now, that issue isn't presented by the bill because the bill is an act by the Legislature, so it's not covered by Article 11, Section 7 of the constitution, that issue wasn't raised in my memo of March 21 because that is not an issue with the bill.

[4:04:44 PM](#)

MR. WAYNE continued to address constitutional issues as follows:

The constitutional issues raised in the bill, there's Article 2, Section 7 of the constitution, it says that, "Legislators shall receive annual salaries and they may receive a per diem allowance." If this bill passed or the initiative passed, either one, and the Legislature decided not to follow it, the court probably wouldn't intervene, they would say the payment of per diem is an internal legislative matter, it's a legislative prerogative, it's "nonjusticiable." I say that based on some past holdings of the court, they cited one of them here on page 4 of my memo.

Another constitutional issue is federal preemption. The initiative creates something called "foreign influence corporation" and defines what that is and says that, "Any foreign influence corporation can't donate anything to a campaign or spend any money on a campaign at all." Federal law already prohibits any foreign national from contributing, donating or spending funds in connection with federal, state or local elections either directly or indirectly. A contribution or expenditure by a foreign-influence corporation which is defined as one that takes a certain amount of money from a foreign national might be the same thing as an indirect expenditure or contribution by a foreign national, it's probably already covered by federal law and so a state law that does the same thing might be preempted by the federal law, especially if it conflicts with the federal law and that's probably one of the main substantive differences between the bill, the draft in front of you today, and the initiative. The initiative doesn't limit the application of the restrictions on expenditures and contributions by foreign-influence corporations, the bill does, it says that in a state election the prohibition on those expenditures and contributions only applies if it's allowed by federal law. So, it tries to reconcile that the state and federal law says that if there isn't a conflict and that's why when they drafted it, I added instead of creating a new law section like the initiative does. I added the language to existing law that already had some of that reconciliation language in it to deal with contributions by foreign nationals. So, it addresses the same issue which is a concern about campaign contributions or expenditures by foreign-influenced corporations, but it addresses it in a slightly different way and also in a way that takes care of part of a concern about federal preemption.

[4:08:49 PM](#)

MR. WAYNE continued to address constitutional issues as follows:

Under "possible constitutional issues" are listed on pages 6 and 7 of my memo. The first one was "freedom of speech in association" because it is a fundamental right to be able to speak out and to make contributions and so forth. The court looks really

carefully whether or not the action taken goes too far in addressing the government's concern. So, as I had written on page 7, it says that the bill's sections 1 and 2 have to do with spending by foreign-influenced corporations might go so far that a court would say that they are not sufficiently narrowly tailored to the state's interest in protecting its processes of self-government because it limits all expenditures, even a penny would be limited. There's also an equal protection concern; again, the attorney general's opinion as I've read it doesn't say there are no constitutional concerns with the initiative, just that the initiative is not clearly unconstitutional, it's not a slam dunk in their opinion, so that's why they recommended certification.

4:10:42 PM

CHAIR MEYER asked Mr. Wayne how a "foreign corporation" is defined. He asked if Apple Computer would be considered a foreign-controlled corporation if people outside of the U.S. owned 10 percent of its stock. If so, Apple would be prohibited from giving money to a political action committee (PAC).

MR. WAYNE replied that both HB 44 and the initiative define "foreign corporations." He conceded that the definition for a foreign-influenced corporation is long, but in summary, "Any corporation would be foreign influenced if a foreign national or foreign owner holds, owns, controls or has direct or indirect beneficial ownership of equity or voting shares in an amount equal to or greater than five percent of all corporate voting shares outstanding or all corporate equity." He continued as follows:

There are two other ways that something could be a foreign-influenced corporation also could be, "Two or more foreign nationals or foreign owners combined, holds, owns, controls or have direct or indirect beneficial ownership or equity or voting shares in an amount equal to or greater than 20 percent of all corporate voting shares outstanding or all corporate equity, or a foreign national or foreign owner participates directly or indirectly in decisions relating to covered expenditures or contributions;" in other words, directly or indirectly they are somehow involved in the deciding whether to or how to spend money on a campaign. So, it's really a super-broad definition and one wonders how it could be enforced. I

suppose you could look at every single corporation to see if they are on the date the contribution was made if they fit into one of these three possible categories, it might take some doing, but that's what the initiative does, and we put it into the bill.

CHAIR MEYER concurred with Mr. Wayne that figuring out who owns what shares that equated to more than 5 percent would be difficult. He asked if it was his opinion that inserting the initiative into HB 44 would be close enough to not need the initiative on the ballot.

[4:14:38 PM](#)

MR. WAYNE answered yes. He explained as follows:

I looked at the three-part test, it was articulated in Warren v. Boucher, that 1975 case cited in the memo, and then it is was elaborated on 30 years later in a 2005 case, and it seemed to me like those cases make it clear that the Legislature has some leeway in what it can do as long as it stays within certain boundaries that the court will consider a bill substantially similar for the purposes of displacing the initiative from the ballot if it meets that three-part test and one of the parts that it addresses the same general concerns that are addressed in the initiative, and this bill certainly does that; but, it doesn't have to be addressed in exactly the same way. I think that a bill going even further afield than this one does could probably still meet those tests, this one sticks pretty close. A lot of the differences are just in style; for example, combining some language with a current statute instead of creating a whole new statute, putting the substantive changes, putting that limitation on how the foreign-influenced corporation provision would work in order to address the preemption issue is something that the court would say, "Well this was, you know, done to address a constitutional issue and not to frustrate the purpose of the initiative makers," and that's another thing that they look for, is the bill just some kind of a sneak attack on the initiative and I don't think that a court would say that this bill is a sneak attack on the initiative, it addresses the same kind of concerns, does it a little bit differently, I think in some extent probably does it a little bit better and so it is substantially the same.

SENATOR WILSON commented that he was not sure why the Department of Law and the Office of the Lieutenant Governor did not raise more questions after having Mr. Wayne's review regarding issues and problems. He said he was concerned and questioned whether he could provide his support due to the issues he noted.

CHAIR MEYER asked Assistant Attorney General Libby Bakalar to address the committee's constitutional questions regarding HB 44 and the initiative.

4:18:07 PM

LIBBY BAKALAR, Assistant Attorney General, Civil Division, Labor & State Affairs Section, Alaska Department of Law, Juneau, Alaska, commented on HB 44 as follows:

I did author that attorney general opinion on "17AKGA," the process to determine whether an initiative is certified as to see whether the initiative complies with Article 11, Section 7 of the Alaska Constitution. That means there are four things we are allowed to look at: whether a bill makes an appropriation, whether the bill makes local or special legislation, whether it creates rules of court, and there is one other that I can't think of off of the top of my head right now; but, there may very well be constitutional infirmities with an initiative bill down the line, the supreme court says we are not supposed to look at that stuff in advance of certification. The only things we are allowed to consider when we certify or don't certify an initiative is whether Article 11, Section 7 is violated. So, this initiative bill did not violate any of that. So, that's the basis of the lieutenant governor's certification of the ballot measure. So, it's not that these issues have not been identified or looked at, it's just that we are not permitted under case law to deny certification of a ballot measure that does not present a "Section 7, Article 11" problem.

4:19:21 PM

CHAIR MEYER asked if an initiative is legal until it is challenged.

SENATOR COGHILL added that he was going to remind Ms. Bakalar that she was referring to the single-subject rule.

MS. BAKALAR replied as follows:

That's the fifth one, actually. There's a fourth one that I'm not thinking of, appropriations, local-special, rules of court, one more that I can't think of, and the single-subject rule which is the Croft v. Parnell case, but in any event, it is extremely limited. There are many initiative bills that raise potential due process concerns, contract issues, takings issues, equal protection problems, those are not things that we are permitted to look at under the case law when we certify a measure, that's not appropriate for pre-election review.

CHAIR MEYER said he appreciated Ms. Bakalar's explanation.

[4:20:08 PM](#)

SENATOR WILSON commented as follows:

I guess that question would be on the single-subject in an appropriation that Mr. Wayne has in his memo.

MS. BAKALAR replied as follows:

The single-subject issue was looked at specifically related to Section 9 of that bill. I'm going from memory here, Section 9 of the bill was the part that dealt with campaign finance that was a little bit divergent from the other sections of the bill. We concluded that given the broad scope under which the supreme court reviewed single-subject, that it met the single-subject requirement. So, that's the one area in the case law that is developed around what we look at pre-election and that's the Croft v. Parnell case.

SENATOR GIESSEL asked if the constitutionality would only be settled by "taking it to court."

MS. BAKALAR answered as follows:

Yes, other parts of the initiative's constitutionality would have to be litigated in an as-applied challenge or perhaps a facial challenge but some form of a challenge that actually looked at constitutional issues in the bill post-enactment. Initiatives don't get the same vetting that legislation does because the

supreme court has said that prior to an election all we are allowed to look at, all the lieutenant governor or a municipal clerk, for example, is permitted to look at is these four or five areas.

SENATOR GIESSEL asked her to address how the "salmon initiative" is being challenged in court prior to passage.

MS. BAKALAR specified that "17FSH2" was denied certification by the lieutenant governor as follows:

It is our position that that ballot measure unconstitutionally violates the appropriations restriction in Article 11, Section 7; so, it does violate one of the four core restrictions of enactments by initiative. The constitution says that an initiative cannot make an appropriation, make or repeal an appropriation, we think "17FSH2" does do that. We recommended against certifying the measure, that was litigated, a trial-court judge ruled in the sponsor's favor and now the state appealed.

CHAIR MEYER noted that Senator Coghill may have a question. He asked if he wanted to wait until the bill is heard in the Senator Judiciary Committee.

SENATOR COGHILL answered yes.

CHAIR MEYER thanked Ms. Bakalar for her testimony. He stated that he had learned a lot in the committee meeting. He asked Mr. Johnston if he had any feedback from Representative Grenn regarding combining the initiative into HB 44

[4:23:12 PM](#)

RYAN JOHNSTON, Staff, Representative Grenn, Alaska State Legislature, Juneau, Alaska, replied as follows:

Representative Grenn has been trying to work to get into communication with the other members, trying to get a consensus. Again, he's been very busy, and he apologizes for the delay. In my capacity to speak for him, he thinks this is a good avenue to go forward with since the chair brought the motion forward, but he hasn't heard back from the initiative yet.

CHAIR MEYER asked who the other two sponsors of the initiative are.

MR. JOHNSTON replied that he did not know.

CHAIR MEYER stated that he thought the other two sponsors are Bonnie Jack and Representative Kreiss-Tompkins.

MR. JOHNSTON answered correct.

CHAIR MEYER summarized that the committee had taken public testimony. He inquired if HB 44 had fiscal notes.

[4:24:49 PM](#)

At ease.

[4:26:15 PM](#)

CHAIR MEYER called the committee back to order and commented as follows:

The fiscal notes will be forthcoming with the new CS, but it's similar to the original HB 44 which had zero fiscal notes. Since we have modified this bill somewhat, there will also have to be a title change resolution.

[4:26:42 PM](#)

SENATOR GIESSEL moved to report SCS CSSSHB 44(STA), version 30-LS0208\N from committee with individual recommendations and attached zero fiscal note.

She also made a motion to adopt the forthcoming title change resolution. [Title change resolution SCR 19 was read the first time on 3/29/18 and held on the Secretary's desk until it was taken up on final passage on 5/8/18.]

CHAIR MEYER announced that without objection, SCS CSHB 44(STA) and forthcoming title change resolution was reported from the Senate State Affairs Standing Committee.

[4:27:49 PM](#)

At ease.

SB 186-VOTER REGISTRATION & PFD APP REGISTRATION

[4:30:01 PM](#)

CHAIR MEYER called the committee back to order and announced the consideration of Senate Bill 186 (SB 186). He noted that at the previous meeting the committee adopted an amendment from Senator

Coghill which made the bill an opt-in rather than an opt-out. He said his office has come back with a committee substitute (CS).

[4:30:37 PM](#)

SENATOR GIESSEL moved to adopt the CS for SB 186, version 30-GS2097\D as the working document.

CHAIR MEYER objected for discussion purposes.

[4:31:02 PM](#)

CHRITINE MARASIGAN, Staff, Senator Meyer, Alaska State Legislature, Juneau, Alaska, explained that version D incorporates the amendment that Senator Coghill offered in the previous meeting into the bill. She noted that at the same meeting there had been a second amendment that was a technical amendment to the bill, but the amendment needed to be reworked considering the changes that Senator Coghill's amendment made to the original bill. She said the CS makes the voting option opt-in versus an opt-out.

CHAIR MEYER asked if there was an amendment from the Division of Elections that was included or is forth coming.

MR. MARASIGAN replied that there was a revised amendment.

CHAIR MEYER removed his objection to the CS and announced that the CS, version D, was adopted.

[4:32:34 PM](#)

JOSE BAHNKE, Director, Alaska Division of Elections, Office of the Lieutenant Governor, Juneau, Alaska, announced her availability to address the division's amendment for SB 186.

[4:32:49 PM](#)

SENATOR GIESSEL moved Amendment 1 dated March 26, 2018.

AMENDMENT 1

OFFERED IN THE SENATE

TO: CSSB 186 (STA)

Page 2, line 16, following "treat":

Delete "**an eligible**"

Insert "a"

Page 2, line 26:

Delete "registration of the applicant's registration status"

Insert "voter registration"

Page 3, line 23, following "(9)":

Insert "under the procedures established by the director of the division of elections under AS 15.07.070(k)"

[4:33:02 PM](#)

SENATOR COGHILL objected to review the amendment.

[4:33:07 PM](#)

At ease.

[4:33:35 PM](#)

CHAIR MEYER called the committee back to order.

MS. BAHNKE specified that the amendment makes three technical changes. She noted that the first change made on page 2, line 16, "an eligible" to "a" was done because the division does not know if a person is eligible at the time, they apply for the permanent fund dividend (PFD).

She explained that the second technical change on page 2, line 26, was made because of Senator Coghill's amendment to provide conformity by adding reference to the PFD statute and clarity relating to voter registration.

She said the third technical change on page 3, line 23, allows the division director to adopt regulations.

CHAIR MEYER asked if committee members had questions for Ms. Bahnke regarding Amendment 1.

SENATOR COGHILL stated that he had no objection.

SENATOR MEYER asked if the CS will reduce the division's workload related to sending out cards.

[4:36:15 PM](#)

MS. BAHNKE explained that the intent for the bill was threefold: make necessary legal changes to enhance efficiency, harmonize the interaction between the division and the Permanent Fund Division, and reduce expenditures by avoiding the opt-out mailer from the PFD registration process. She summarized that the amendment will make the harmonizing changes and enhance efficiency, but mailing will still be required as part of the division's work.

SENATOR GIESSEL addressed the third paragraph of the third fiscal note and pointed out the sentence, "Reoccurring costs of \$360,000 will be needed to hire temporary workers to process notices." She asked if the division is willing to absorb the cost.

MS. BAHNKE answered correct.

CHAIR MEYER removed his objection and announced that Amendment 1 is adopted.

[4:38:19 PM](#)

SENATOR GIESSEL moved to report CSSB 186(STA), version 30-GS2097\D as amended from committee with individual recommendations and pending zero fiscal notes.

[4:38:33 PM](#)

CHAIR MEYER announced that there being no objection, the motion carried.

[4:38:47 PM](#)

At ease.

HB 138-MARCH: SOBRIETY AWARENESS MONTH

[4:39:56 PM](#)

CHAIR MEYER called the committee back to order and announced the consideration of House Bill 138 (HB 138).

[4:40:41 PM](#)

REPRESENTATIVE IVY SPOHNHOLZ, Alaska State Legislature, Juneau, Alaska, sponsor of HB 138, provided an overview of the bill as follows:

HB 138 permanently designates March as Sobriety Awareness Month. Sobriety Awareness Month recognizes and celebrates Alaskans who choose to live a sober lifestyle and provides an opportunity for Alaskans to

promote sobriety through activities and celebrations throughout the state.

This bill is not a new idea and the concept behind it is not a new idea. In the 1980s and 1990s, native Alaskan and rural communities recognized the negative impact that alcohol and drug abuse had in their lives, so they sought to help solve the problem by highlighting models of sobriety in their communities. This movement escalated in 1992 when the first "Idita Pledge" event was undertaken by Akiak musher Mike Williams who was a musher participating in the Iditarod and he carried signatures of Alaskans who pledged to live a sober lifestyle with him along the Iditarod. In 1995 the Legislature adopted this idea for the first time declaring its first sobriety awareness month, but really the whole concept was built in the Alaskan native community and has been carried by the Alaska Federation of Natives (AFN) for many years. In 1996 there was a big push around Sobriety Awareness Month and the Alaska Legislature amended the Uniform Alcoholism and Treatment Act to reaffirm the state's commitment to sobriety by recognizing that it's the policy of the state to recognize, appreciate and reinforce the example set by its citizens who lead in, believe in, and support a life of sobriety. Sobriety Awareness Month continued to live on as sort of an annual activity of the Legislature until 2006; however, sobriety remains a really important topic in the state as alcoholism and drug addiction continue to plague us in many ways.

Last year the McDowell Group reported through a study that found that the economic cost to the state in 2015 for alcohol and drug abuse was about \$3 billion, that's pretty significant and we of course have had a lot of conversations recently in light of your crime problem and the opioid epidemic about the challenge with addiction that we continue to suffer from in the State of Alaska. I would argue that even in spite of the scope and the growth of the opioid epidemic, alcohol is still the number-one drug of choice of most Alaskans and remains probably our number-one problem.

Many of you may know that I made a personal choice about 15-and-a-half years ago to become sober and have raised my family with a sober mom and really proud of

that. I think that as a public person it's important to use my position to help educate people about the doors that sobriety can open to one if you allow yourself to walk through and that in fact it can be far from a burden but in fact can be quite liberating. So, I'm pleased to be able to present this concept to you.

4:44:10 PM

SENATOR COGHILL commented that his mind goes to the times of year where alcohol consumption seems to "rev up." For example, the holiday seasons like the Fourth of July, Christmas and New Year's. He asked if she did a study on the placement of the Sobriety Awareness Month to get more public attention.

REPRESENTATIVE SPOHNHOLZ answered that choosing March was founded on tradition. She explained that the tradition originally came from the "Idita Pledge." She opined that the sobriety message might be missed during the holidays when many activities occur. She said the decision was to stick with tradition and pick March for the Sobriety Awareness Month. She disclosed that she inherited the bill from a former House representative and decided to take the concept and run with it.

4:45:51 PM

TASHA ELIZARDE, Staff, Representative Spohnholz, Alaska State Legislature, Juneau, Alaska, explained that HB 138 establishes March as "Sobriety Awareness Month" in the state.

She said Section 1 clarifies in codified law that the State of Alaska recognizes the importance of sobriety in the state. Section 2 adds a section to AS 44.12.150, designating March as Sobriety Awareness Month that allows schools, community groups, public and private agencies, other organizations, and individuals who are invested in the cause of sobriety to celebrate with activities.

CHAIR MEYER commented that there seems to be a lot of bills for awareness months and days. He agreed that establishing March as Sobriety Awareness Month is important and appreciated Representative Spohnholz for bringing the legislation forward.

SENATOR GIESSEL stated that she appreciated March as the chosen month because March is the month of the Iditarod where the race goes through many rural villages. She said sobriety is a topic that could be spotlighted by the Iditarod's platform where everyone, even outside the state follows.

CHAIR MEYER noted that the intent is to make the designation in statute rather than a resolution that is brought up annually to serve as a reminder versus passing a bill and forgetting about it. He pointed out that Representative Spohnholz has chosen to dedicate her life to encourage people who need to be sober.

[4:48:31 PM](#)

REPRESENTATIVE SPOHNHOLZ explained that she inherited the bill and concurred that the intent is to designate the legislation into law, a philosophy that she agreed with. She opined that the sobriety message from advocates and community members should be focused on Alaskans rather than educating legislators. She asserted that Alaskans need to hear the message that sobriety is a positive and powerful choice that can lead to a vibrant life. She emphasized that the sobriety choice does not move a person away from fun, self-realization and great relationships; however, sobriety moves an individual towards those things. She asserted that the bill will provide advocates with an opportunity to move away from legislators and focus on building a community of support around the sobriety topic, something that she believes is a good use of their precious time as a resource.

[4:49:53 PM](#)

CHAIR MEYER opened public testimony.

[4:50:18 PM](#)

KIM ZELLO, Advocate, Fallen Up Ministries, Palmer, Alaska, testified in support of HB 138. She explained that Fallen Up Ministries is a nonprofit that advocates for those who have addictions, seek sobriety and need peer support or transitional-living services. She set forth that HB 138 will give notice to the state and nation that Alaska recognizes important issues that have affected residents like addiction and sobriety.

[4:52:10 PM](#)

JULIE KITKA, President, Alaska Federation of Natives (AFN), Anchorage, Alaska, testified in support of HB 138. She disclosed that AFN historically has been very involved in the sobriety movement. She said making a permanent month dedication to sobriety would be very constructive. She explained that AFN's work in supporting the sobriety movement over the years has shown to change the stigma of people, attitudes and lives. She emphasized that the legislation is not the end-all for everything but will be positive and will make a difference.

CHAIR MEYER thanked AFN for their resolution.

MS. KITKA explained that the resolution was from the AFN convention.

[4:55:16 PM](#)

TIFFANY HALL, Executive Director, Recover Alaska, Anchorage, Alaska, testified in support of HB 138. She disclosed that Recover Alaska is a multi-sector action group working to reduce excessive alcohol use and harm throughout Alaska. She asserted that Recover Alaska's vision is for Alaskans to live free from the consequences of alcohol misuse and to empower individuals to achieve their full potential.

She stated that Recover Alaska wants to correct the falsehood that addiction is a moral failing and emphasize that addiction is a chronic disease. She remarked that Alaska has a pervasive drinking culture and noted statistics connected to alcohol where the state is at the top in terms of sexual assault, domestic violence, child abuse, and suicide. She pointed out that the state's alcohol mortality rate is over twice as high as the rest of the nation and six-times higher with the Alaska native population.

She thanked AFN's sobriety movement for initiating March for sobriety as well as their year-round involvement in promoting healthy, sober lifestyles. She thanked Representative Spohnholz for taking up HB 138 and for serving as a strong and positive role model of what a full, healthy, sober life can look like.

[5:00:12 PM](#)

CHAIR MEYER closed public testimony.

[5:00:47 PM](#)

SENATOR GIESSEL moved to report HB 138, version 30-LS0488\D from committee with individual recommendations and attached zero fiscal note.

[5:01:01 PM](#)

CHAIR MEYER announced that there being no objection, the motion carried.

[5:01:13 PM](#)

At ease.

SB 210-SEAFOOD MISREPRESENTATION ON MENUS

[5:02:35 PM](#)

CHAIR MEYER called the committee back to order and announced the consideration of Senate Bill 210 (SB 210).

5:03:09 PM

SENATOR BILL WIELECHOWSKI, Alaska State Legislature, Juneau, Alaska, sponsor of SB 210, provided an overview as follows:

This bill adds a civil penalty for misrepresentation of seafood at a retail food establishment. There has been quite a bit of research across the country about seafood mislabeling.

In 2105, Oceana, which is a nonprofit organization, collected 82 salmon samples from restaurants and grocery stores and DNA sampling found that 43 percent was mislabeled, and diners were 5 times more likely to be misled in restaurants than grocer stores.

In 2013 another Oceana study of 1,200 samples across the U.S. found that 52 percent of the samples in certain parts of the country were mislabeled, of 120 samples of fish claimed to be red snapper, only 7 were red snapper.

In 2011 the Boston Globe tested fish at 123 Massachusetts restaurants, nearly half were mislabeled.

In 2016 Oceana tested 25,000 seafood samples across the world and found the 1 in 5 were mislabeled, and that 58 percent of the substitute species carried health risks, often parasites and toxins.

The University of California-Los Angeles (UCLA) conducted a study of 26 Los Angeles sushi restaurants from 2012 to 2015 and found that 47 percent of the sushi was mislabeled.

We don't have Alaska-specific data, but I can relate a personal experience of being wrongly served at a restaurant mislabeled seafood and they knowingly told me it was something wrong.

We have a letter of support from the United Fishermen of Alaska. This bill is aimed at protecting consumers and the state's seafood industry, an industry that

employs tens of thousands of people and has an economic output of around \$5 billion.

[5:05:31 PM](#)

CHAIR MEYER opined that the most common mislabeling occurrence happens in restaurants both in Alaska and outside of the state where they say, "this is Alaska wild salmon," and you don't agree, the same goes for king crab, etcetera. He remarked that mislabeling can have a serious detrimental effect on the state's economy and the fishing industry.

SENATOR WILSON asked Senator Wielechowski to address the enforcement piece in the bill. He asked if the bill is for people to file a complaint before fines are enacted or will the Alaska Department of Environmental Conservation (DEC) go around doing random testing.

SENATOR WIELECHOWSKI replied that he does not believe DEC will be enforcing outside of what they normally do because the department does not have the resources to sample; however, a provision was included in the bill that allows employees of retail establishments to report anonymously without retaliation. He opined that employees are in the best position to report mislabeling and then DEC can decide whether to act.

CHAIR MEYER noted that a representative from DEC was available to answer committee members' questions.

[5:07:28 PM](#)

NATE GRAHAM, Staff, Senator Wielechowski, Alaska State Legislature, Juneau, Alaska, provided the following sectional analysis of SB 210:

Section 1(a):

States that a retail food establishment, which a restaurant or sushi bar, may not misrepresent a menu item or the identity or the origin of the seafood or seafood ingredient.

Section 1(b) and 1(c):

Allow an employee to report a violation as well as protects the employee from retaliation.

Section 1(d):

Provides an exception if a retail food establishment informs a consumer that they are substituting something on the menu that they are not violating

this. It also allows if a customer does complain and there's been a misrepresentation that the restaurant or industry could provide the customer with a full refund and that would prevent DEC from needing to take action on this.

Section 1(e):

Establishes a fine of up to \$500 for each fine, but not to exceed \$50,000 in total fines.

Section 1(f):

Defines "menu" and "seafood."

Sections 2 and 3:

Section 2 takes two definitions that were previously under AS 17.20.049 (b)(3) and (b)(4) and moves them to AS 17.20.075; it says in the bill that they are repealed but they are just being moved.

CHAIR MEYER addressed employer retaliation in Section 1(c) where an employer cannot directly or indirectly dismiss, layoff, suspend, etcetera. He asked what would happen if someone laid off or fired an employee.

[5:10:07 PM](#)

SENATOR WIELECHOWSKI replied that an employee potentially could have other claims, but they would be completely independent of the statutes. He said all that would statutorily exist for dismissing an employee would be the \$500 fine.

SENATOR COGHILL asked him to address "verbal warning," noted on top of page 2. He noted that he has read menus where a restaurant puts on the menu, "May be substituted by." He asked if the bill allows for the substitution admission on menus.

SENATOR WIELECHOWSKI explained that "verbally warns customer" is noted in the bill so the substitutions noted on a menu would be prohibited. He said he was open to discussion to change what Senator Coghill addressed.

SENATOR COGHILL replied that he was just wondering because he has seen the substitution admission and avoids the noted items in restaurants

SENATOR WIELECHOWSKI reiterated that the bill does say "verbally."

SENATOR COGHILL responded that he would watch that provision.

[5:12:01 PM](#)

SENATOR GIESSEL addressed Senator Coghill's point and opined that misrepresentation might be taken care of in Section 1(a), "A retail food establishment may not misrepresent on a menu the identity or origin of a seafood or seafood ingredient in a prepared food product."

SENATOR COGHILL clarified that he intended to say would there still be a requirement for a verbal warning. He noted that he would address Section 1(e) regarding violations and fines with Senator Wielechowski in the Senate Judiciary Committee.

SENATOR WIELECHOWSKI replied that there is another section that deals with misleading labeling or advertisement that is within the section that Senator Coghill referenced.

[5:13:52 PM](#)

CHAIR MEYER opened and closed public testimony.

[5:14:07 PM](#)

SENATOR GIESSEL moved to report SB 210, version 30-LS1413\D from committee with individual recommendations and attached zero fiscal note.

[5:14:37 PM](#)

CHAIR MEYER announced that there being no objection, the motion carried.

[5:15:00 PM](#)

There being no further business to come before the committee, Chair Meyer adjourned the Senate State Affairs Standing Committee at 5:15 p.m.