

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 1, 2022

3:04 p.m.

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Matt Claman, Vice Chair
Representative Geran Tarr
Representative Andi Story
Representative Sarah Vance
Representative James Kaufman
Representative David Eastman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 245

"An Act relating to political contribution limits; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 234

"An Act relating to political contributions; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 245

SHORT TITLE: POLITICAL CAMPAIGN CONTRIBUTION LIMITS

SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

01/18/22	(H)	PREFILE RELEASED 1/7/22
01/18/22	(H)	READ THE FIRST TIME - REFERRALS
01/18/22	(H)	STA
02/01/22	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HB 234

SHORT TITLE: POLITICAL CONTRIBUTION LIMITS

SPONSOR(S): REPRESENTATIVE(S) SCHRAGE

01/18/22 (H) PREFILE RELEASED 1/7/22
01/18/22 (H) READ THE FIRST TIME - REFERRALS
01/18/22 (H) STA
02/01/22 (H) STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE JOSEPHSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 245, as the prime sponsor.

MAX KOHN, Staff
Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation, titled "Campaign Contribution Limits," on behalf of Representative Josephson, prime sponsor.

REPRESENTATIVE SCHRAGE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 234, as the prime sponsor.

ERIK GUNDERSON, Staff
Representative Calvin Schrage
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation, titled "HB 234 - Political Contribution Limits," on behalf of Representative Schrage, prime sponsor.

ACTION NARRATIVE

[3:04:52 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:04 p.m. Representatives Story, Vance, Claman, and Kreiss-Tomkins were present at the call to order. Representatives Eastman, Tarr, and Kaufman arrived as the meeting was in progress.

HB 245-POLITICAL CAMPAIGN CONTRIBUTION LIMITS

3:06:55 PM

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 245, "An Act relating to political contribution limits; and providing for an effective date."

3:07:00 PM

REPRESENTATIVE JOSEPHSON, Alaska State Legislature, prime sponsor, introduced HB 245. He paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

HB 245 restores reasonable and common-sense limits on how much money individuals and groups can contribute to political candidates in State elections. Alaskans have repeatedly shown a preference for low limits on contributions to candidate, and in the absence of HB 245, or similar legislation, contributions may become limitless in upcoming elections. Campaign contributions are one of the most obvious ways that wealthy individuals and corporations try to corrupt politicians to serve their interests rather than the interests of all Alaskans. Alaska has historically recognized this risk in campaign contributions and since 1973 has restricted how much individuals can donate to politicians.

Between 2006 and 2021, Alaska Statutes placed that limits at \$500 over the course of a calendar year. In 2021, however, the United States Court of Appeals for the 9th Circuit ruled that limit unconstitutional. The Court argued that because \$500 was unusually low, applied to all state races, and was not indexed with inflation to grow over time, that it infringed on donors' freedom of speech and gave an unfair advantage to incumbents. In the aftermath of the decision, Alaska's Public Office Commission set the individual-to-candidate limit at \$1,500. The people of Alaska must have a say on what the limit is, and new legislation is required unless we risk no limit at all.

HB 245 addresses the court's concerns by repealing AS 15.13.070(c) and replacing it with new language. The original \$500 limit passed by 71% approval among voters in 2006 is closer to \$700 in today's dollars.

HB 245 uses that adjustment as the new limit on candidates to the State House. Limits on individuals rise accordingly to \$1,000 for candidates to the Senate, and \$1,500 to candidates for Governor. The new law satisfies the Court's constitutionality test by adjusting for inflation and differentiating the limits for different levels of public office.

In addition to restoring common-sense limits on how much money someone can give to a political candidate, HB 245 restores an urgently needed limit on how much candidates can raise from out-of-state contributors. Alaskans are highly attuned to the threat of corruption in our state politics. Out-of-state interests sometimes compete with Alaskan interests and the will of the voters. In order to both satisfy the Court's decision that the old non-resident limit was unconstitutional and fight the appearance of corruption in our elections, HB 245 would limit candidates to raising no more than 50% of their money from out-of-state. I urge your support to bring these reforms to Alaska.

[3:15:18 PM](#)

MAX KOHN, Staff, Representative Andy Josephson, Alaska State Legislature, on behalf of Representative Josephson, prime sponsor, provided a PowerPoint presentation, titled "Campaign Contribution Limits" [hard copy included in the committee packet]. He began with the sectional analysis on slide 2, which outlined Section 1 of HB 245: contribution limits on individuals. He said Section 1 follows the original framework that was struck down by the 9th Circuit Court of Appeals. Instead of a flat \$500 limit on individuals, HB 245 provides that an individual can give \$700 to a House candidate, \$1,000 to a Senate candidate, \$1,500 to a candidate for governor, \$1,000 to groups or PACs that give directly to candidates, and \$5,000 to political parties.

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MR. KOHN turned to slide 3, which outlined Section 2 of HB 245: Limits on groups that are not political parties. He indicated that Section 2 doubles the contributions limits outlined in section 1; therefore, a group could give \$1,400 to a House candidate, \$2,000 to a Senate candidate, \$3,000 to a candidate

for governor, \$2,000 to groups, and \$10,000 to political parties.

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MR. KOHN continued to Section 4 (slide 4): Joint campaigns for governor and lieutenant governor. He explained that an individual could give \$3,000 to a joint campaign, while a group could give \$6,000. Section 5, he said, pertains to indexing for inflation and Section 6 limits nonresident contributions to 50 percent of a candidate's total contributions during the campaign (slide 5). He said the rationale for the 50 percent limit came from Ballot Measure 2 [2020], which requires an independent expenditure to publicly disclose financial information if they raise more than 50 percent of their money from out of state.

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MR. KOHN highlighted the goal of HB 245 on slide 6 as follows: To maintain the spirit of previous law and Alaskans' preferences as closely as possible while staying in the confines of the Constitution. Combat corruption and the appearance of corruption in our elections." He advanced to slide 7, titled "History of Campaign Contribution Limits in Alaska," which read as follows [original punctuation provided]:

- 1974: AK Leg passes \$1,000 contribution limit. •1996: Legislature lowers the limit to \$500 to pre-empt a ballot initiative.
- 2003: Legislature raises the limit back to \$1,000.
- 2006: Ballot initiative passes with 73% support for limit to be lowered back to \$500.
- 2021: *Thompson v. Hebdon* 9th Circuit finds Alaska's \$500 limit unconstitutional and APOC reverts to \$1,000 + inflation = \$1,500.

MR. KOHN proceeded to slide 8, which depicted a timeline of the legislative history. Slide 9 provided the historical limits in today's dollars. He pointed out that the limit of \$1,000 that was passed in 1974 is equivalent to \$5,900 in today's dollars; further, he highlighted the 2006 limit of \$500, which was passed by a citizen's ballot initiative, indicating that it would equate to about \$697 after indexing for inflation.

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MR. KOHN summarized slides 10-13, noting the difficulty of comparing contribution limits by state, as the structure typically differs. He pointed out that Montana's law was also challenged and ended up in the 9th Circuit Court of Appeals. He conveyed that the limits displayed for Montana on slide 13 were upheld by the 9th Circuit using the same test they applied to Alaska. He emphasized that the contribution limits proposed in HB 245 would not be radical compared to other states.

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MR. KOHN summarized slide 14, titled "Alaskans prefer low limits," which read as follows [original punctuation provided]:

- There have been two ballot initiatives to lower limits and reduce nonresident influence over Alaskan elections.
 - The 1995 initiative quickly gained 32,000 signatures and put pressure on the legislature to pass a similar bill.
 - The Anchorage Daily News published this quote at the time:
 - "VECO's Pete Leathard said he fears the initiative might diminish the industry's influence."
- The 2006 Ballot Initiative went to the ballot and passed with 71% of voters approving the measure.

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MR. KOHN reviewed APOC disclosures in the 2018 governor's race to independent expenditures on slide 15. He noted that prior to Ballot Measure 2 [2020], independent expenditures were not regulated and could accept money from anywhere in the country. He reported that in 2018, 71 percent of the funding came from out-of-state residents totaling nearly \$5 million, whereas 29 percent came from Alaska residents. He noted that Ballot Measure 2 addressed this problem, adding that per the Courts, the legislature has less power to regulate independent expenditures than it does with contributions directly to candidates. Without HB 245, he said, independent expenditures would be regulated more than direct contributions to candidates due to the 50 percent disclosure requirement.

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MR. KOHN addressed constitutionality on slide 16, which read as follows [original punctuation provided]:

- HB 245 passes contribution limit tests laid out in Randall v. Sorrell.
- The previous \$3,000 aggregate nonresident limit was found unconstitutional. The judge's opinion in the case also noted "while we do not foreclose the possibility that a state could limit out-of-state contributions in furtherance of an anti-corruption interest, Alaska's aggregate limit on what a candidate may receive is a poor fit." (Thompson v. Hebdon)

MR. KOHN conveyed the bill sponsor's beliefs that the contribution limits are constitutional; further, despite the Court's indication that the \$3,000 aggregate limit is unconstitutional, he noted that they have not tested a similar law to the 50 percent requirement.

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MR. KOHN turned to slide 17, titled "9th Circuit Thompson v. Hebdon," which read as follows [original punctuation provided]:

- The court considered five primary factors for the contribution limit:
 1. Does the limit "significantly restrict the amount of funding available for challengers to run competitive campaigns?" Yes
 2. Are political parties subject to the same low limits as individuals? No
 3. Are volunteer services counted toward contribution limits? No
 4. Are the limits indexed for inflation? No
 5. Is there a "special justification" for a uniquely low limit? No

[3:30:05 PM](#)

MR. KOHN turned to slide 18, titled "Constitutionality of this Bill: Limits on Individuals," which read as follows [original punctuation provided]:

- 1. Does the limit "significantly restrict the amount of funding available for challengers to run competitive campaigns?" This factor is improved
- 2. Are political parties subject to the same low limits as individuals? This factor was already satisfactory
- 3. Are volunteer services counted toward contribution limits? This factor was already satisfactory
- 4. The limits are now indexed for inflation. This factor is improved
- 5. The limit is no longer uniquely low. This factor is improved

[3:31:06 PM](#)

MR. KOHN concluded on slide 19, titled "Empirical Evidence," which read as follows [original punctuation provided]:

- Empirical studies have found links between large contributions and public trust in government.
- One study found that "a large majority of Americans believe that the campaign finance system contributes to corruption in government."
- Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law, 153 U. Pa. Law Review 119, 120 (2004)
- Another found that "members' dependency on outside contributions draws them in a more extremely liberal or extremely conservative ideological direction that is counter to the ideological preferences of the districts they represent."

- Getting Short-Changed? The Impact of Outside Money on District Representation, 97 Social Science Quarterly

CHAIR KREISS-TOMKINS invited additional comments from Representative Josephson.

[3:31:45 PM](#)

REPRESENTATIVE JOSEPHSON, referencing a provision in [SB 155] sponsored by Senator Wielechowski, suggested that the governor should not be allowed to solicit and receive contributions during a legislative session. He indicated that he would welcome such an amendment should the committee propose one.

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REPRESENTATIVE TARR agreed with the undue influence of contributions. She expressed concern about the impact of raising the out-of-state contribution limit to 50 percent for a House raise and inquired about the rationale behind that provision.

REPRESENTATIVE JOSEPHSON agreed with her concern. He explained that the intent is to show deference to the 9th Circuit Court of Appeals, as the Court had been opposed to the \$3,000 limit. He opined that that it's "un-Alaskan" if more than 50 percent of a candidate's contributions are coming from out of state.

[3:34:25 PM](#)

CHAIR KREISS-TOMKINS announced that HB 245 was held over.

[3:34:33 PM](#)

The committee took a brief at-ease.

HB 234-POLITICAL CONTRIBUTION LIMITS

[3:35:50 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 234, "An Act relating to political contributions; and providing for an effective date."

[3:36:02 PM](#)

REPRESENTATIVE SCHRAGE, Alaska State Legislature, prime sponsor, introduced HB 234.

[3:36:29 PM](#)

The committee took a brief at-ease.

[3:36:46 PM](#)

REPRESENTATIVE CLAMAN moved to adopt the proposed committee substitute (CS) for HB 234, labeled 32-LS119\I, Bullard, 1/22/22, as the working document.

CHAIR KREISS-TOMKINS objected for the purpose of discussion.

[3:37:11 PM](#)

REPRESENTATIVE SCHRAGE presented the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

House Bill 234 updates Alaska's political donations limits and requires the Alaska Public Offices Commission to increase these limits every ten years based on Alaska's consumer inflation rates.

Last year, the 9th Circuit Court of Appeals struck down the statutory campaign finance contribution limits in the Thompson vs Hebdon decision. Alaska has long touted strong and effective campaign finance laws and regulations which have helped to reduce perception and acts of quid pro quo and corruption in our electoral process. These regulations have served to promote better accountability and trust in our election system and elected officials.

This ruling created legal uncertainty over political contribution limits which have not been updated since the 2006 citizen's initiative. HB 234 seeks to bring the newly struck down contribution limit laws into compliance with the ruling of the 9th Circuit Court of Appeals and ensure limits moving forward are in line with this ruling.

To accomplish this, HB 234 would double the current statutory contribution limits made to group entities, non-group entities, and candidates who seek to

influence state or local elections. For example, a candidate could now accept \$1,000 per calendar year from an individual as opposed to the existing statutory \$500 individual contribution limit struck down by the 9th Circuit Court of Appeals.

HB 234 directs the Alaska Public Office Commission to adjust all contribution limits for inflation every 10 years, rounding them to the nearest \$50 increment. This statutory change helps to ensure donation limits remain in compliance with the Thompson v Hebdon decision in perpetuity.

[3:39:00 PM](#)

ERIK GUNDERSON, Staff, Representative Calvin Schrage, Alaska State Legislature, provided a PowerPoint presentation, titled "HB 234 - Political Contribution Limits" [hard copy included in the committee packet], on behalf of Representative Schrage, prime sponsor. He began on slides 2, titled "History of Alaska's political Contribution Limits," which read as follows [original punctuation provided]:

1974 to 1995

- Statutory individual contribution limit: \$1,000
- 1975 Contribution limit adjusted for inflation: \$4,725
- 1995 Contribution limit adjusted for inflation: \$1,708

1996

- Citizens' Initiative reduced individual contribution limit to \$500
- 1996 Contribution limit adjusted for inflation: \$831

2003

- Legislature passed SB 119, increasing the individual contribution limits back to \$1,000
- 2003 contribution limit adjusted to inflation: \$1,460

MR. GUNDERSON continued to summarize the history of Alaska's political contribution limits on slide 3, which read as follows [original punctuation provided]:

2006 Alaska Campaign Finance Reform Initiative

- Passed overwhelmingly with 73% support

Decreased the amounts:

- an individual may give a candidate or group from \$1,000 to \$500
 - 2006 individual limit adjusted for inflation: \$669
- an individual may give a political party from \$10,000 to \$5,000
- a group may give a candidate or other group from \$2,000 to \$1,000
- a group may give a political party from \$4,000 to \$1,000

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MR. GUNDERSON glossed over slide 4 and continued to slide 5, titled "Thompson v. Hebdon (2019)," which read as follows [original punctuation provided]:

Background:

- Plaintiffs sued challenging Alaska's political contribution and out-of-state limits that an individual can contribute to a candidate for political office, or to an election-oriented group other than a political party, as infringement under the First Amendment.
- The District Court and Ninth Circuit initially upheld the individual limits as a "sufficiently important state interest" and "closely drawn" to that end but ruled the out-of-state contribution limits were unconstitutional.
- The U.S. Supreme Court remanded this decision back to the Ninth Circuit to reconsider upholding Alaska's contribution limits, citing *Randall v. Sorrel* (2006) which ruled Vermont's \$400 contribution limit unconstitutional.
- The Ninth Circuit then struck down Alaska's statutory political contribution limits citing that they were too low and had not been adjusted for inflation since initially implemented.

[3:43:23 PM](#)

MR. GUNDERSON advanced to slide 6, titled "Where we are now," which read as follows [original punctuation provided]:

- The Alaska Public Offices Commission (APOC) has issued an advisory opinion under AS 15.13.374 enforce \$1,500 individual and \$3,000 no political party group contribution limits.
- APOC advisory opinion limits are based on the 2003 legislative political contribution limits increased for inflation.
- Uncertainty remains as to whether the contribution limits enacted in APOC's advisory opinion are valid and if they have the authority to set these limits. These limits have yet to be adopted by APOC's five commissioners and could be changed or rejected.
- The only way to ensure that contribution limits are known and enforceable is for the Alaska Legislature to act and implement statutory limits that will be upheld by the court system.

[3:44:30 PM](#)

MR. GUNDERSON proceeded to slide 7, titled "HB 234 Overview," which read as follows [original punctuation provided]:

- Brings Alaska's political contribution limits in accordance with the Thompson v Hebdon (2019) decision which struck down Alaska's existing statutory limits.
- Doubles existing statutory campaign contribution limits with the exception of donations to political parties (example: an individual could donate \$1,000 to a candidate instead of the statutory \$500 limit).
- Requires the Alaska Public Offices Commission (APOC) to update political contribution limits every ten years based on inflation, rounded to the nearest \$50 increment.

MR. GUNDERSON briefly addressed slide 8, which provided a comparison of the statutory limits, the APOC advisory opinion, and the limits proposed in HB 234. He noted that the limits outlined in HB 234 would fall in between the statutory limits and the APOC advisory opinion.

[3:45:35 PM](#)

MR. GUNDERSON presented the sectional analysis of HB 234 beginning on slide 9, which read as follows [original punctuation provided]:

Section 1

Amends AS 15.13.070(b) to change the limit an individual may contribute per year to a non-group entity with the purpose of influencing an election, candidate, write-in candidate, or group that is not a political party from \$500 to \$1,000.

Section 2

Amends AS 15.13.070(c) to change the limit a non-political party group may contribute per year to a candidate, write-in candidate, another group, non-group entity, or political party from \$1,000 to \$2,000.

Section 3

Amends AS 15.13.070(f) to change the limit a nongroup entity may contribute per year to another nongroup entity for the purpose of influencing an election, candidate, write-in candidate, group, or political party from \$1,000 to \$2,000.

CHAIR KREISS-TOMKINS interjected and proposed skipping the sectional due to time constraints. He invited questions from the committee.

[3:46:05 PM](#)

REPRESENTATIVE CLAMAN recalled that when considering the per-person contribution limit, the 9th Circuit Court of Appeals mentioned findings that the limit specifically relates to reasonable legislative objectives, which allows for limiting the speech that the contributions constitute. He asked how the proposed limits would meet a reasonable basis for contributions.

REPRESENTATIVE SCHRAGE recalled that the 9th Circuit Court of Appeals' decision had communicated that the only legitimate reason to curtail freedom of speech through political contributions is in the interest of anti-corruption to avoid the appearance or actuality of quid-pro-quo transactions or dealings. He said the amount of money in campaigns makes him uncomfortable; however, Citizens United v. Federal Election Commission created a new "landscape" wherein limitations on free speech must be made cautiously. He added that the limits proposed in HB 234 were selected in an attempt to balance the citizens' expressed interest with the ruling of the Courts.

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REPRESENTATIVE CLAMAN pointed out that in 1974, the Alaska State Legislature passed a law that implemented a limit of \$1,000 to counter corruption, which was later changed to \$500 by a citizens' initiative and then raised back to \$1,000 by the legislature based on zero legislative findings of corruption. He said he had been troubled by the reference to 2003, when in reality, the legislature applied the limit of 1,000 in 1974, which after adjusting for inflation, is not even close to \$1,000. He expressed his concern that none of the laws were passed with reasonable findings of corruption and therefore, there wasn't a need for those particular limits.

REPRESENTATIVE SCHRAGE believed that Representative Claman had outlined a legitimate concern; however, he opined that legislators are accountable to the voters who expressed interest in a much lower limit. He emphasized the need to take the expressed will of the voters into account as new limits are set. He pointed out that 1974 was a much different time, which makes it difficult to draw a comparison. He reiterated that the citizens of Alaska have expressed a strong interest in keeping the limit low. He said his intent was to strike a delicate balance between the expressed will of the voters and the Court's ruling on a reasonable limitation on free speech.

[3:51:01 PM](#)

CHAIR KREISS-TOMKINS inquired about the summary of changes in the proposed CS, Version I.

[3:51:34 PM](#)

MR. GUNDERSON referenced a document titled, "Summary of Changes from A to I" [included in the committee packet], which read as follows [original punctuation provided]:

1. **Section 5(i): p 2, line 18:** remove "2023" and insert "2032."
2. **Section 6: p 2, line 23:** Remove Sec. 6.
3. **Section 7: p 2, line 24:** Section renamed accordingly to Sec. 6.

REPRESENTATIVE SCHRAGE confirmed that Section 6 was removed to avoid amending that section of statute; further, he noted that the adjustment of dates is to align the bill with the redistricting changes that occur every 10 years.

[3:53:01 PM](#)

CHAIR KREISS-TOMKINS removed his objection to the adoption of the proposed CS, Version I, as the working document.

REPRESENTATIVE EASTMAN objected for the purpose of a question regarding Section 6. He sought to clarify whether the language that was struck down by the court would be removed or left in its current form.

REPRESENTATIVE SCHRAGE explained that the original form of the bill had removed that language from statute. In Version I, however, that removal is removed to keep the language in statute; therefore, if further challenges to that language end up in litigation, further clarification could be provided by the Court.

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REPRESENTATIVE EASTMAN removed his objection. There being no further objection, Version I was adopted.

[3:54:09 PM](#)

REPRESENTATIVE KAUFMAN considered a scenario in which inflation rose into the double digits resulting in overly restrictive contribution limits. He asked the bill sponsor to speak on the potential of that.

REPRESENTATIVE SCHRAGE acknowledged Representative Kaufman's consideration as a valid concern. He believed it illustrated yet another reason to consider a slightly higher limit; further, he opined that a limit of \$1,000 for individual-to-candidate contributions would leave enough ceiling to remain legally defensible in a prolonged period of heightened inflation.

[3:55:32 PM](#)

CHAIR KREISS-TOMKINS announced that the bill was held over.

[3:56:15 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 3:56 p.m.