

Minutes approved April 4, 2024

ALASKA STATE LEGISLATURE
SELECT COMMITTEE ON LEGISLATIVE ETHICS
HOUSE SUBCOMMITTEE
NOVEMBER 29, 2023
9:30 AM

[9:33:09 AM](#)

1. CALL THE MEETING TO ORDER

Deb Fancher welcomed everyone and she called the meeting to order at 9:33 a.m.

Deb Fancher asked Tamara Maddox to take roll.

Roll Call

Representative Sara Hannan
Representative Johnson
Deb Fancher
Conner Thomas
Skip Cook
Jerry McBeath

Quorum present.

Deb Fancher announced that having a quorum allows the committee to conduct business. She requested that cell phones be silenced.

Others present

Tamara Maddox
Joyce Anderson
Jacqui Yeagle

2. APPROVAL OF AGENDA

Deb Fancher entertained a motion to approve the agenda. Conner Thomas so moved. There were no objections. The agenda was approved.

[9:35:52 AM](#)

3. PUBLIC COMMENT

Deb Fancher opened public comment. She noted there were a number of people both online and present waiting to comment on Complaint H 22-01 and Complaint H 22-02. She thanked the

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members of the public for their participation, she asked that comments be limited to the topic at hand and to three minutes.

Pat Martin introduced himself to the committee as a prominent figure in the complaints. He asked the committee's indulgence in allowing him to speak for more than three minutes given his role in the complaints. He stated that Representative Kevin McCabe was his house representative at the time and he disagreed with some of Representative McCabe's votes as both a constituent and as a representative of two interest groups, Alaska Right to Life and Alaska Gun Rights.

Pat Martin said he took his concerns to Representative McCabe directly and as a leader of the interest groups he took his concerns to the membership. This is how interest groups work. On April 20, [2022], Representative McCabe took to the house floor and decried that the interest groups were holding him accountable for his votes that were inconsistent with promises and stated intentions. Pat Martin had a transcript of Representative McCabe's house floor speech and he referred to a couple of Representative McCabe's statements that day. Representative McCabe defined corruption as anything that is morally degenerate, perverted, depraved, characterized by improper conduct. Political corruption may also come in the form of manipulating policies and abusing a position of authority to increase or maintain an individual's power or status or wealth. Representative McCabe also characterized corruption, specifically with respect to Alaska Right to Life and Alaska Gun Rights. Pat Martin understood Representative McCabe's references to the two organizations as an accusation against himself.

Tamara Maddox reminded Pat Martin to limit his comments to the complaints, and she prompted the committee's memory that Pat Martin had the opportunity to speak to the committee on November 18, 2022, so the committee may already have some of this information.

Pat Martin concluded with a statement of his belief that this complaint is a continuation of Representative McCabe's accusation of political corruption on the part of himself and uses vague language such as "apparently" and "unknown". He opined that the complaints weaponize the committee and this process in the fight between Representative McCabe and

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himself. When the legislature is in session, constituents have to wait for opportunities to meet with legislators and at times that requires sitting on the hallway benches, and that is not an abuse of state resources.

Deb Fancher thanked Pat Martin for his testimony. She continued with a statement to the effect that while most complaints are confidential, both Former Representative Christopher Kurka (H 22-01) and Representative David Eastman (H 22-02) waived confidentiality on May 4, 2022, and that is why the committee is taking public testimony about them.

Deb Fancher asked if anyone else would like to speak.

Representative Sara Hannan asked Deb Fancher if the complainants had waived confidentiality.

Deb Fancher indicated to Tamara Maddox that she should reply to Representative Sara Hannan. Tamara Maddox replied that the complainants did not waive confidentiality.

Representative Sara Hannan asked for guidance about Pat Martin publicly identifying elements of a complainant that are not waived into the public record, should those elements be kept out of the record or is the entirety of the complaint now in the public record for public comment.

Tamara Maddox said the committee has not confirmed the identity of anyone involved in the complaint that has not waived confidentiality. Members of the public are able to speak to the complaint as they see fit. She repeated that we have not confirmed or denied or provided any information about individuals who have not waived confidentiality.

Representative Sara Hannan asked if Representative McCabe has waived confidentiality.

Deb Fancher replied that it has not been confirmed whether he is the person who filed the complaint.

Jerry McBeath said Mr. Martin had made allegations [against] Representative McCabe. He stated he is uncomfortable hearing allegations unless they are specified as such [undecipherable], this is what someone has said without opportunity for anyone spoken against to defend himself or herself.

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Tamara Maddox said due process is an issue that has come up more than one time throughout this. As Mr. McBeath has stated, this is not a court of law and we do have a duty bound by statutes and rules of procedure to keep confidentiality. However, in public comment, members of the public are able to speak their mind but we are not confirming or denying any individual involved in the complaint who has not waived confidentiality.

Pamela Samish thanked the committee for taking her testimony. She asked the committee to drop the complaints against Former Representative Christopher Kurka and Representative David Eastman. Voters elected Former Representative Christopher Kurka and Representative David Eastman for many reasons and one of those reasons was for the way they defend the children of our future generations. She added they represent her and the entire pro-life community. Accusing them is infringing on her rights as a voter and as a pro-life Alaskan. They are doing the job they were elected to do. She asked the committee to drop the complaints to ensure the continued freedom of representation for the people of the state of Alaska.

Jason Floyd said he is thankful [the complaint] is open to the public. He is a voting constituent who supports the right to life. He belongs to a number of associations that travel to Juneau on his behalf because he cannot do so. He is a business owner, a father, a grandfather. He pays his taxes, he loves this country, and he loves what this country stands for. He is thankful this committee is meeting because it provides the opportunity to answer questions and to ask them. He believes the allegations against Mr. Kurka and Mr. Eastman are fictitious and mean-spirited, inaccurate and false.

Jason Floyd was a social worker, and he knows there are laws against false allegations. When making false allegations, regardless of the veil of anonymity, they should be held to account. Whoever made this allegation has obviously has not read the Alaska Constitution or if they have, [they] do not care about articles 2, 4, and 5, which are very clear about the role of government and the role of the people and the people's access to its government.

Jason Floyd said the question of whether Mr. Martin had access to an office, on his behalf, to get the ear of one

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of few great champions in the capitol who stands for the things in which he believes. Are not the real questions who made those allegations, were they false, and were they accurate? If they were false, what kind of investigation is needed to correct the behavior, so we do not see the weaponization of the institutions in which he believes very strongly.

Jason Floyd asked that at the conclusion of this matter, the committee take up the important follow up question of whether to open up an investigation of the complainant. Obviously, Mr. Martin was acting on his behalf to petition the government for redress of grievances and the formulation of laws and policies that reflect his values. He thanked the committee for the time [to speak].

Mike Alexander said this is a frivolous complaint. It is a major expense to travel to Juneau, and he relies on people like Mr. Martin to do that. He wishes he could rely on Representative McCabe, who is his representative, as much as he can on Representative David Eastman and Former Representative Christopher Kurka, to fight for the right to life, to get him a full permanent fund and other things. Representative David Eastman is a target of Representative McCabe; he doesn't know why. This [complaint] is taking up valuable state time and budget. He wants the complaint thrown out and investigation initiated. He does not see that sitting in a legislator's office is a concern. He depends on people like Pat Martin to travel to Juneau to represent him and his interests. He wishes he did not have to make this call this morning; he shouldn't have to make this call because it is a frivolous complaint. It's a waste of the committee's time and it is a waste of their time, and he hopes the committee will clear Former Representative Christopher Kurka and Representative David Eastman, and then find out who made the complaint. He and other folks would appreciate it, and he would appreciate if the committee found out who filed the complaint. He thanked the committee for their time.

Mark Chryson said he is here to listen to what the state is doing and how much garbage they are trying to produce. Both Representative David Eastman and Former Representative Christopher Kurka have been his representative for years. He has known Representative David Eastman for a long time. He asked why time is being wasted because somebody doesn't like the way somebody votes. First thing people in the

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political opposition do is file complaints and try to impeach them. This is a waste of time, it is a waste of state resources, and whoever filed the complaint needs to be investigated and sanctioned accordingly. He and the Alaska Independence Party stand behind Representative David Eastman and Former Representative Christopher Kurka. They are not members of the party, but they are true Alaskans, they represent their constituents well, and they vote accordingly.

Karen Lewis thanked the committee for hearing the public; she thinks that is important. She asked why the person who made the allegations wants to be anonymous? The complainant should have the intestinal fortitude to self-identify. She knows both Representative David Eastman and Former Representative Christopher Kurka very well. They both have exemplary character and a profound belief in the creator. They both fight extremely hard to protect babies in the womb from being murdered. They are heroes. To her, the complaint seems like a vendetta and there is no place for that in our legislature. It's hard enough for them to go [to Juneau] to fight for righteousness, and to have someone on the same side make frivolous complaints...it's like lawfare. She expects it from Democrats but not from Republicans. It's ridiculous and she asked the committee to dismiss the complaints. The complainant is trying to destroy the reputations of these representatives, but he will end destroying his own.

Mark Glatt said his issue is the ability to access legislators during session both logistically and geographically. And when you do go down there, you have to speak louder in person to be heard than the lobbyists. Because of geography and infrastructure, you may have to sit outside a legislator's office because sometimes it is difficult to find a room down there. If he could afford it, he would be camped outside his legislator's office because he has issues he wants to address, but he cannot afford it. The state's rules favor lobbyists, and the state is run by lobbyists, not citizens, because lobbyists can afford to camp out down there. Lastly, a citizen goes to Juneau to be heard and is called an unregistered lobbyist? If a person is representing themselves or representing a group of people and is not being paid, are they considered an unregistered lobbyist? That is an unfair accusation too. It is a closed system [in Juneau] and whoever filed the complaint needs to have the guts to self-identify. He

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thinks the complaint should be dropped. He thanked the committee.

Melanie Glatt asked if this means it will make it harder for her to talk or work with representatives in Juneau? She went to Juneau about 10 years ago to talk with legislators about issues concerning the disabled. She was there for a couple of days and was unable to talk to a single legislator, only to their staff. It was a waste of her time and effort. If these kinds of situations continue to arise, it will inhibit her and her family's constitutional rights by limiting her ability to petition my government. She is troubled the complaint is anonymous. She asked the committee to drop the complaint, and thanked the committee.

James Squyres identified himself as the husband of Pamela Goode, former staff for Representative David Eastman before she was fired by House leadership. It seems as if the spirit of the Salem witch trials is still walking the halls of Juneau with these complaints. He said he listened to Pat Martin's public testimony to the committee in November 2022, where he said, "Based on my visits to the capital, it seems that either Representative McCabe or Senator Hughes or their staff members seem to have taken a very, very, very politically motivated stance against me, against a private citizen, against Alaska Right to Life, a simple pro-life activist group, and the representatives that we work with."

James Squyres subsequently posted a meme on social media asking if Republican Representative McCabe or his staff filed ethics complaints against Republicans Representative Eastman and Representative Kurka. Senator Shelley Hughes quickly and publicly denied filing the complaint. Alaskans can easily deduce that Representative McCabe is the one behind these complaints.

James Squyres said he has in his possession a copy of the redacted complaint. The complainant signed the complaint on April 25, 2022. The complaint is one year and seven months old. That is a long time to not be resolved. There has been serious [defamation] to various parties during this inordinately long process. Senator David Wilson testified publicly in November 2022, indicating there was a problem with staff. Maybe they should be fired. The problem was apparently with the investigator, not the staff, and yet my

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wife was fired by House leadership with no input by her previous boss, Representative David Eastman.

James Squyres continued: The core of this complaint looks to be one paragraph containing a phrase that Mr. Martin and his assistant apparently used the offices, and it is unknown if he was allowed to use computers or telephones. Apparently? Unknown? Is this all it takes for one person to baselessly weaponize this committee to spend public funds to engage in what amounts to a witch hunt? This complaint should have been dismissed with prejudice a long time ago and the complainant disciplined for weaponizing this committee. Article 12, Section 5 of the Alaska Constitution Oath of Office to support and defend the Constitution. Article 1 Section 6 Assembly, the right of the people to peaceably assemble and to petition the government shall never be abridged. He advised the committee to think about where they stand on this issue.

Waynette Coleman agrees with James Squyres 100%. This erroneous complaint is completely unjustified. She hopes the committee will quickly come to the decision to drop the complaint. She believes in the Constitution and that we have every right to approach our elected officials for we are the people, and we are the ones who elect them. We have every right to come to them, whether it be their office, by phone, by text, [or] by email. They are in Juneau, a crucial and terrible place for them to be for constituent access. She encourages the committee to have common sense and practicality and use the Alaska Constitution to do the right thing by dropping the complaint and investigating the complainant. The complaint is ridiculous, erroneous, and she looks for a quick and practical decision by the committee. She thanked the committee for the time to speak.

Richard Stoffel of Palmer cannot believe another frivolous action to take away the God-given constitutional freedoms of two wonderful representative: Representative David Eastman and Former Representative Christopher Kurka, champions to save the life of the unborn. Richard Stoffel signed the constitutional petition that Pat Martin took to the legislature. This frivolous complaint is because all three men are so effective in saving babies' lives. Obviously, this [complaint] was initiated by RINOs (Republicans in name only) who don't adhere to the people's platform. Representative David Eastman and Former Representative Christopher Kurka have exposed them and they

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are being vindictive and bringing forward one frivolous thing after another to try and stop any effective [legislator] representing us from doing good constitutional godly actions.

Michael Garhart thinks the complaints against Representative David Eastman and Former Representative Christopher Kurka should be dropped. Michael Garhart knows them both, he's heard them speak, and they have the highest morals of all the representatives in Juneau. They do not waver in their good moral standing. He appreciates them being there; it's wrong what happens to good politicians, and it should be stopped. He asked the committee to drop all the frivolous complaints. Thank you.

Andrew Elliott, of Eagle River, worked as a staffer for Former Representative Christopher Kurka. The complaint and proceedings concern him because as we all know, traveling to Juneau to petition state government is difficult. It can be discouraging for some people to petition their government; they get persecuted and discriminated against because of it. That a group or an individual like Mr. Martin cannot travel to Juneau and not have conversations with multiple representatives without getting himself or those representatives in trouble with frivolous and completely false ethics complaints like this one is concerning.

Andrew Elliott thinks the complaint should be dropped; and he encourages the committee to take a hard look at the facts. The words "apparently" and "unknown" were used in the complaint. Those words suggest the facts of the case are unknown. He posits if the committee seeks out the facts, they will find the complaints are false, no laws were broken, and Mr. Kurka, Mr. Eastman, and Mr. Martin acted well within their rights as representatives and as a private citizen to petition their government. Again, he encouraged the committee to look at the facts and consider the broader implications - that this will further discourage individuals who already go to great lengths to get to Juneau and to address legislators. Thank you.

Dixie Banner, from Wasilla, said both Former Representative Christopher Kurka and Representative David Eastman have been her representatives. She has advocated with especially Representative David Eastman for the last 10 years about parental rights and the family court system. Alaska has

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poor family values; spending more time and money on social issues [like] crime because they fail to instill the fathers back into the equation. The law system and state court system are weaponized against us; there is a two-tier justice system. Legislators can do what they please but they are never reprimanded for their behavior. [Their] chooses are based on who is paying them in regard to lobbyists. The bottom line is we need Juneau to be pushed back and we need to move the capital. The concept of weaponizing somebody's reputation based on somebody not liking them is totally wrong. This is just one more witch hunt. There are definitely going to be term limits. Both Representative David Eastman and Former Representative Christopher Kurka about parental reform and no one wants to do it because their fear of the caucus. The caucus is wrong as well. Dixie Banner highly suggests term limits in 2024. The government belongs to the people, not a selected few.

Archibald Campbell, of Anchorage, has been an educator of adults and children for over 30 years, and recently he launched a civics class for kids. The class will cover the principles of the great republic and representative government. The classes talked about the time and energy it takes to go to the capital and to meet with their representatives and those who hold opposing views in an effort to try and use influence and logic with powerful language where change is needed.

Archibald Campbell also teaches them how the republic is being thwarted because they have to think twice about bringing ideas to the legislators. This is crazy. Other forms of government like socialism or fascism limit the ability of citizens to exercise their rights in a representative government. He strongly encourages the committee to stop wasting time, drop this frivolous complaint, and move on to more important things. He hopes to be able to continue challenging his students to participate in their government.

Jackeline Goforth is a staunch supporter of the constitution. She believes it was written by the people for the people. Every person in the state has the right to travel to Juneau and speak with her representative and other representatives without worry about a frivolous ethics complaint filed against them that stifles their voice. This is one of the most outrageous and egregious actions taken against these two gentlemen. She has nothing

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but awe and amazement at their ethics and their integrity. This is a hit piece, another part of the witch hunt, and she it totally against her tax dollars going toward this kind of activity when we should be working on real problems. Thank you.

Pam Goode, from the Deltana area, worked for Representative David Eastman in Juneau. Representative David Eastman's office upholds the oath of office and their duty more seriously than any other office. When she was hired Representative David Eastman made sure [staff] upheld the principles and values and their oaths of office and they did what they were hired to do and that over 16,000 voters elected Representative David Eastman to do; he represents over 18,000 voters. That was always the focus.

In 2022, she noticed there were those who were not supportive of their office, but they were sent there to represent the constituents. She started locking her office door because nearby there was a representative she deemed to be vindictive, unstable, and had a temperament around which she did not comfortable. She was often the first in the and the last person in the building - often alone.

That same year, she was interviewed no fewer than three times for ethics complaints that had no weight whatsoever. There was a miscommunication and when they found out about the miscommunication, they addressed it right away. It was supposed to be confidential, but the treatment she received at the airport going to Juneau in 2023 was uncomfortable. On January 20, she received a termination letter. Representative David Eastman knew nothing about her termination. She was given five days. Representative David Eastman and Representative Louise Stutes were both down to one staff. In her opinion, there are probably a lot of constituents that are not aware that over 36,000 constituents are not being represented. What the legislature is doing was beyond unethical and in her opinion, corrupt. That situation continues to this day. Representative David Eastman only has a part time staff running his office. These are her personal experiences. She finds it unethical and corrupt, and she asks the committee to address her concerns.

Deb Fancher said she wanted to make sure both Representative David Eastman and Former Representative Christopher Kurka had ample time to speak to the committee.

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But first, she responded to two concerns she heard repeatedly in the public comments: confidentiality and timeliness. She read from the first page of the complaint form a section of AS 24.60.170: ... pursuant to AS 24.60.170(1): The person filing a complaint shall keep confidential the fact that a complaint has been filed as well as the contents of the complaint.

Deb Fancher stated that complaints are confidential until they are further and fully investigated. This complaint is confidential at the current stage of the process. In response to concerns about timeliness, she explained that while in the administrator position, Jerry Anderson unexpectedly died. On behalf of the subcommittee, she apologized and took responsibility for the length of time the process has taken.

Deb Fancher said that Representative David Eastman and Former Representative Christopher Kurka had waived confidentiality, but the complainant has not waived confidentiality. On Friday, November 24, 2023, Joe Miller notified the committee that he had been engaged as legal representative for both Representative David Eastman and Former Representative Christopher Kurka. On November 27, 2023, Tamara Maddox provided him a copy of the complaint public packet.

Tamara Maddox advised Deb Fancher to close public comment before continuing. Deb Fancher did so.

4. COMMENTS

Deb Fancher invited Former Representative Christopher Kurka or Joe Miller to speak to the subcommittee.

Joe Miller spoke first about the confidentiality provisions. He said he understands a lot of what the committee does is established by statute, and some by its own rules of procedure that are derived from statute. The confidentiality procedure in statute appears to be afforded to the complaint subject, but not to the complainant. That makes it difficult for Representative David Eastman and Former Representative Christopher Kurka to confront the complainant and others.

In a criminal court, and Joe Miller understands this is not completely analogous to the committee process, a subject

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has the opportunity to confront witnesses against them and whether there are issues with credibility. That is not possible with a blanket confidentiality prohibition that does appear to be a privilege held by anyone other than the complainant. AS 24.60.170(c) provides that "A proceeding conducted under this subsection, documents that are part of a proceeding, and a dismissal under this subsection are confidential as provided in (1) of this section unless the subject of the complaint waives confidentiality as provided in that subsection." Both Representative David Eastman and Former Representative Christopher Kurka waived confidentiality.

Joe Miller addressed also due process concerns. He recognizes the committee has broad discretion, and there were a couple of cases that have gone to the courts for review. But first he wanted to address the confidentiality issue.

Joe Miller said he thinks one of the reasons for the confrontation clause in the U.S. and state constitutions comes out of the American experience with tyrannical system in which they lived. Justice Brandeis said, "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." More recently, JFK said, "The very word secrecy is repugnant in a free and open society, and we are as a people inherently and historically opposed to secret societies, to secret oaths and to secret proceedings." And that really is the American experience. We pride ourselves as having democratic principles and we want to make sure the people can see and hear what is going on.

Joe Miller continued, asking what would be more important than trying to take sanction against one that has been elected by their constituents? Both Representative David Eastman and Former Representative Christopher Kurka were elected by wide margins. Representative David Eastman had over 50% of the vote and thinks Former Representative Christopher Kurka had close to 70% of the vote. Representative David Eastman also suffered the indignity of having to defend against litigation during his election, which was also an attempt to impact his ability to represent those who elected him, and that is effectively what is happening here too.

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Joe Miller said he understands the Ethics Committee has responsibilities to ensure members comply with the ethics code, but the reality is that every time action is taken even by public notice and press releases, it impacts the legislators' ability to do the business of the people, as has this whole proceeding because it takes time and obviously has big import. Undercutting confidence in institutions is another aspect the committee needs to consider.

Joe Miller continued, saying that practically, there are additional considerations beyond undercutting confidence in institutions. A number of people commented about how they would like to travel to Juneau. It is difficult, expensive, and now a generational issue about the capital being in Juneau and the difficulty of accessing legislators. Joe Miller thinks the legislature likes the remoteness because it allows them to not have the public eye on them. When a person who comes to Juneau to have impact on the public process ends up causing sanctions to be applied to the legislators whose offices were visited, it chills public contact. Pat Martin is not a paid lobbyist, he's Joe Q. Citizen, there on his own dime, trying to influence the process. The complaint is that he "camped out" in a couple of legislators' offices, which was somehow an ethics violation.

Joe Miller said any aggressive complainant can drive a truck through [undecipherable], and the next thing you know, half of the legislature is up on complaints, and probably justly so for other reasons, but not for having somebody in their office for an inordinate amount of time, perhaps longer than other constituents. That, in his opinion, is not the road the committee wants to go down.

Joe Miller commented on the language of the complaint. Does the complaint state the legislator violated the law? No, it does not. Neither complaint identifies any direct action by either Former Representative Christopher Kurka or Representative David Eastman that violates the ethics law. The complainant says they [the legislators] were present at the time, effectively arguing guilt by association. He would never accept a complaint [arguing] guilt by association, one without action or something that allows them to have been in charge of the supposed ethics violation, that would not pass muster on probable cause.

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Joe Miller identified other problematic issues with the complaint. The term "base of operating" is undefined, amorphous, and ambiguous. Is five minutes ok but an hour is too long? Or maybe an hour is ok, but seven or eight hours is not ok? Are legislators going to allow more leeway to somebody who traveled by car, by ferry, by plane, spent hundreds of dollars than someone who lives in Juneau? Even trying to find probable cause in these complaints under those facts spells disaster because he thinks many if not most legislators will fall askance of standards that suggest that hours in the office translates to operating a base of operations.

Joe Miller addressed the petitions referred to in the complaint, and whether it makes a difference that somebody carries in a bag, a suitcase, or a dolly. Does that trigger a concern about whether it violates the Ethics Act? Again, not a precedent, he thinks, the committee wants to endorse, assuming other similarly motivated complainants in the future and that will make the workload exponentially higher.

Joe Miller asserts there is no statement of personal observation in the complaint, and that is fatal to a complaint on probable cause. He said he had spoken to the committee chair and staff, and he understands he may be looking at this complaint from the context of a lawyer. He is, in the sense that he looks at the law and tries to interpret and apply the law. Probable cause is not supported by the lack of personal observation.

Joe Miller moved on to statute, specifically AS 24.60.030(a). It states a legislator or legislative employee may not (2) use public funds, facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of the legislator, legislative employee, or another person; this paragraph does not prohibit, and this is the important aspect of this, there are a number of exceptions to that general statement, in his opinion, the first may be the most important. Even if the allegations are true and that there is personal observation, (A) provides that a limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and either the cost or value related to the use is nominal

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or the legislator or legislative employee reimburses the state for the cost of the use.

Joe Miller asserted there is no allegation of any interference with the performance of public duties, and there is no allegation there was any cost incurred. He opined the committee could read from the face of the complaint the nominal nature of this. Subsection (D) says, "... if the use does not interfere with the performance of public duties and if there is no cost to the state for the use of the space and equipment,..." a legislator can use their office for nonlegislative purposes. Subsection (G) allows for use by a legislator of photographs of that legislator.

Joe Miller recognizes that the committee's interpretation of confidentiality is different than his, and asked the chair if he could refer to information within the investigator's narrative of the interview.

Chair Deb Fancher replied she would appreciate it if he did not, and to instead refer to the complainant as the complainant.

Joe Miller replied he wasn't talking about naming anybody; he was talking about the details of discussions with certain witnesses.

Chair Deb Fancher replied that at this stage of the process, the investigation is still in the early stages, in discovery, and she did not think it necessary to do that. She deferred the question to Joyce Anderson or Tamara Maddox.

Joyce Anderson said because the information is public information even though it is redacted, she saw no problem if Mr. Miller wants to refer to something in the testimony in those documents as this is the time to respond to them.

Tamara Maddox agreed with Joyce Anderson Joe Miller may refer to the public documents.

Joe Miller said part of the reason Pat Martin was in the offices for so long was for the purpose of taking photographs, which AS 24.60.030(a)(2)(G) allows. More importantly, both AS 24.60.030(a) and (e) both provide

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exceptions for personal use if the use is de minimis and it doesn't interfere with the performance of public duties.

Joe Miller argued the facts should not be reasonably contested. The complainant was out of town so there was no personal observation. Mr. Martin is not an unregistered lobbyist. His "assistant" was his juvenile daughter. It is a matter of public record that Representative David Eastman and Former Representative Christopher Kurka were on the House floor or in committee meetings on April 14, 2022, so it is difficult to prove that Pat Martin spent extensive periods of time in their offices under the direction or express approval of either legislator. The committee needs to demand more from complaints than generalized statements not based on personal observation, and on the face don't meet probable cause especially when combined with statutory exceptions.

Joe Miller said there are clearly some constitutional issues like due process. In addition, he offered that he did not think a complaint filed after a legislator leaves office would withstand judicial scrutiny but if it did it would be accompanied by judicial oversight over the committee's actions is a far reach under any reasonable interpretation. There are first amendment issues. This is a clear chilling of the ability of constituents to interact with their legislators, and that if the complaint goes further, it will chill speech under both the U.S. and state constitutions. The U.S. and the state were built on the idea of discourse; it's a sign of a healthy democratic system. When discourse is shut down, it's a sign of an unhealthy democratic system.

Deb Fancher invited questions from the committee for Representative David Eastman or Former Representative Christopher Kurka before asking questions of Joe Miller. There was no objection to her suggestion.

Deb Fancher invited Former Representative Christopher Kurka to speak to the committee.

Former Representative Christopher Kurka was stunned and shocked when he received the complaint. His former attorney laughed at the complaint because on its face it complains about protected constitutional activity. The issue is that the complainant is upset with the message and the petition being delivered to the capitol, and that he (Former

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Representative Christopher Kurka) aided Pat Martin. If he had aided Pat Martin, he would have been doing his job. It's a freedom of speech issue, and the freedom of assembly, the freedom to petition your government.

Former Representative Christopher Kurka reported that Pat Martin came at his request to his office, and they met for over an hour in his office strictly for legislative purposes. That it is unethical because the complainant finds Pat Martin repugnant is outrageous. On its face the complaint is absurd, and it should be dismissed; it is complaining about first amendment protected activity.

Former Representative Christopher Kurka addressed the issue of due process. He understands there is discussion about whether the Ethics Committee is part of the judicial branch [of government] because public members are appointed by the judicial branch or is it under the legislative branch. It doesn't matter, his due process rights still apply. You are still obligated to allow us discovery, they are still obligated to see the evidence against them, they still have a right to cross examine the complainant and question their credibility.

Former Representative Christopher Kurka is upset he is still dealing with this issue and that state resources are being spent on it. He does not see where in the process Article 1, section 11, Rights of Accused has been observed.

Deb Fancher invited Representative David Eastman to speak.

Representative David Eastman stated for the record that he thinks the committee mistook the importance of this issue to his constituents and others who called in. He hopes and expects the committee to dismiss this complaint. His biggest concern is the impact this has had on himself, his family, his staff, and his constituents. Those cannot be undone by dismissing the complaint. The complaint does not address anything he himself did, yet he is accused of violating the Ethics Act. The only reference to him in the complaint is a statement that he was present at the time. That is impossible. He could not have been as he was on the house floor and in a committee meeting. Yet the complainant had gotten notarized a statement that he was there. He offered that if his name had not been mentioned, the committee would not even have looked at the complaint.

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Representative David Eastman read from the Ethics Act Sec. 24.60.010. Legislative findings and purpose: The legislature finds that ... (9) a fair and open government requires that constituents have unencumbered access to legislators about issues important to the state under art. I, secs. 5 and 6, Constitution of the State of Alaska, which protect the right of a legislator and a constituent to meet and the right of a person to petition the government, and this chapter is not intended to restrict those rights.

Representative David Eastman asserted there is nothing in this chapter intended to restrict those rights, and people exercising these rights are being threatened with investigations. There is no small impact to himself or the few of his constituents who are able to travel to Juneau because of the hostility some legislators to some people coming to the capitol.

Representative David Eastman reported he received petitions only from Pat Martin last year. He wishes he had received petitions from all sorts of groups, but he didn't. When he delivered those petitions, he was accused of carrying a gun in the capitol, which was a false statement. Security was called. It is a crime to provoke a confrontation with law enforcement by accusing someone of having a weapon when the allegation is false. The statements in the complaint are either exaggerated, don't apply, or are outright false statements. They have consequences, not least of which is time spent by the committee investigating it. There is a dollar sign attached to it. If the complaint had not been filed, neither he nor his staff members would not have had to deal with the investigation and hopefully the staff member who was fired would not have been fired. He wishes the committee would have dismissed the complaint earlier in the process

Deb Fancher closed public comment and entertained questions from the committee for Representative David Eastman, Former Representative Christopher Kurka, or attorney Joe Miller.

Jerry McBeath thanked Representative David Eastman for his comments. He noted that as a political scientist, and political scientists look at legislatures differently than legislators. Maybe the view of political scientists is mistaken or immature or wrong. You said you would welcome petitions from other groups. When you represent groups, do

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you represent them all as constituents or do you represent some of them as stakeholders (meaning larger groups with whom you agree or agree with you but do not live in your legislative district) and others of them as constituents?

Representative David Eastman knows there are other people who feel the same way as the very few people who call, email, or send a petition. Regarding stakeholders, the public record is there for the community to review special interest groups and campaign donations. Last time he checked he was the only candidate not to have money from a special interest group on his campaign. If he had gotten money from a special interest group, it would not make him a representative of those groups, and maybe that is why they don't give him money.

Jerry McBeath noted Representative David Eastman indicated he had been wounded by the inability of the committee to act quickly on the complaint. The committee chair, the new administrator, and the interim administrator had all apologized profusely on behalf of the committee.

Representative David Eastman nodded and replied with his thanks.

Representative Sara Hannan addressed the question of timeliness. In 2022, the investigator attempted over a span of four months to make contact with you and your staff as well as Former Representative Christopher Kurka and his staff. That stretched out the timeline. She asked if Representative David Eastman would speak to why there was no response for the period between September 2022 and January 2023.

Representative David Eastman said he can't speak for Mr. Elliott or Mr. Moffat or Former Representative Christopher Kurka's office. He learned for the first time at the November Ethics Committee meeting there had been unsuccessful attempts to reach out to him or to his staff. No emails had been sent, there were no voice mail messages. They discovered the investigator had been leaving messages in Juneau when staff worked in Wasilla. They were unaware there were messages. He wishes an email or text message had been sent. His staff acted quickly when they were made aware of it.

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Representative Sara Hannan asked if phone messages from the Juneau office are forwarded to the Wasilla office when absent from the Juneau office?

Representative David Eastman replied no, but he appreciates the question. There is a peculiar and historical technical problem with forwarding messages from Juneau to the Wasilla offices due to the age of the system. Complaints have been made and he asked for a system upgrade.

Deb Fancher entertained other questions. There were none. She thanked Representative David Eastman, Former Representative Christopher Kurka, Joe Miller, and everyone who had participated.

5. MOTION TO GO INTO EXECUTIVE SESSION

Deb Fancher entertained a motion to go into executive session.

Jerry McBeath so moved.

Deb Fancher reminded everyone to keep in mind that attendance at executive session will be limited to members of the committee and essential personnel, as determined by the committee. In cases of discussion, investigation, data gathering, interviews, deliberations or decision making on complaints prior to probable cause determination, neither the subject of the complaint, nor any other legislator not on the appropriate subcommittee, shall be allowed in the executive session.

We will be taking up Complaints H 22-01 and H 22-02 in executive session in accordance with the Rules of Procedure of the committee. Both of these [subjects] complaints have waived confidentiality filed by the respective subject of the complaint.

[11:15:21 AM](#)

6. EXECUTIVE SESSION

[12:26:15 PM](#)

7. PUBLIC SESSION

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Deb Fancher announced the decision to dismiss complaints H 22-01 Former Representative Christopher Kurka and H 22-02 Representative David Eastman.

Tamara Maddox will draft a decision.

Deb Fancher asked members of the committee to review the draft dismissal before releasing the decision to the complainant, subjects, and the public.

8. OTHER BUSINESS

Deb Fancher entertained other business. There was none. She entertained a motion to adjourn.

[12:27:53 PM](#)

9. ADJOURN

Jerry McBeath so moved.

The meeting was adjourned.

[12:28:11 PM](#)

ADJOURN: